Bombay Gazette.

VOL. 37. WEDNESDAY, 25TH OCTOBER, 1826. No. 1899.

Kempt and Co.

WILL Sell by Public Auction, this day, Wednesday, the 25th inst. in the Rooms adjoining their premises.

Household Furniture the property of a family that have left the presidency. viz.

Mahogany Dining Tables, Blackwood Do. Jackwood Breakfast Table, Blackwood and Jackwood Cots, Couches, Wardrobes, Chairs, Vase Lamps, &c. &c. &c.

And to close an account,

Some handsome French Ring Table Lamps, with spare Shades.

Bombay, 25th October 1826

Bengal Soda Water for Sale.

MESSRS. KEMPT AND CO beg to inform the public, that this day, Wednesday, the 25th Instant, they will sell by Public Auction, at their Rooms, a small quantity of excellent SODA WATER, sent round from one of the most respectable manufactories in Calcutta, in lots of one dozen each, for the accommodation of purchasers.

This delightful hot-weather beverage can be procured at all times, on application to the undersigned, and will keep to the most remote parts of India.

Bombay, 25th Oct. 1826.

Higgs and Briggs

WILL SELL
BY AUCTION,
To-morrow, the 26th Instant,

AN Invoice of fine Jewellery, consisting of Gold Seals, Keys, Brooches, and an elegant Amethyst Set. Furniture Chintz, and a variety of other articles.

Meadows Street, 25th Oct. 1826.

Higgs and Briggs

HAVE FOR SALE
On Commission,
TWO FIELD OFFICER'S
TENTS,
NEARLY NEW,
SIZE 15 BY 25 FEET
PRICE Rs. 400 EACH.

Meadows Street, 25th Oct. 1826.

Higgs and Briggs

HAVE JUST RECEIVED
FOR SALE
On Commission,
A LONDON BUILT
CURRICLE,
NEARLY NEW,
With Curricle and Buggy Harness and Shifting Shafts.
PRICE Rs. 1500.

Meadows Street, 25th Oct. 1826.

Higgs and Briggs

HAVE JUST RECEIVED
FOR SALE
On Commission,
THE FOLLOWING ELEGANT
ARTICLES OF
PLATE,
VIZ.

SIX Handsome Round Silver Hot-water Vegetable Dishes.

Fluted Butter pot, Milk pot and Sugar pot to Match.

PRICE PER TOLA 1½ RUPEES.

Meadows Street, 25th Oct. 1826.

Higgs and Briggs

HAVE JUST RECEIVED
FOR SALE,
On Commission,
A NEAT
SHIGRAMPOE CHARIOT,
PRICE Rs. 1,000.

Meadows Street, 25th Oct. 1826

Higgs and Briggs

HAVE JUST RECEIVED
On Commission
GOLD WATCHES
By Harrison,
RUPEES, 375 AND 450.

A GOLD Watch by Recordon Rs. 400
Ditto, by Cording 425
An Eight day Clock 150
Time Pieces each 130

Meadows Street, 25th Oct. 1826.

Higgs and Briggs

HAVE JUST RECEIVED
FOR SALE,
On Commission,
A NEAT
BAROUCHE,
PAINTED YELLOW,
WITH A SET OF GOOD
CARRIAGE HARNESS,
PRICE Rs. 1,800.
THE ABOVE BELONGS TO AN ESTATE.

Meadow Street 25th Oct. 1826.

Higgs and Briggs

HAVE JUST RECEIVED
FOR SALE
On Commission,
A DOUBLE BARRELLED
FOWLING PIECES
WITH FLINT LOCKS,
BY
Joseph Manton,
PRICE Rs. 600.
One Ditto By John Manton,
PRICE Rs. 550.
AND A SECON HAND,
Ditto
WITH PERCUSSION LOCKS,
By Wilkinson,
PRICE Rs. 160.

Meadows Street, 25th Oct. 1826.

Higgs and Briggs.

HAVE JUST RECEIVED
FOR SALE,
On Commission,
A VERY NEATLY FITTED UP
CAMP CASE,

CONTAINING the following Articles of the newest fashion, Plated on Steal viz.

1 Doz. Table Spoons, 1 Doz. Tea Ditto, 1 Doz. Desert Ditto, Sauce Ladles, 1 Doz. Dessert Ditto, 1 Dozon Table Forks, Soup Ladle, Fish Knife Gravy Spoons and Salt Spoons, and 1 Set of best Steel Knives and Forks.

PRICE RUPEES 300.

Meadows Street, 25th October 1826.

Eduljee Cursetjee's Sons

WILL SELL
BY PUBLIC AUCTION
On Saturday the 28th Inst.

AN Invoice of Saddlery, Consisting of Hunting Saddles and Bridles, Head and Reins, Martingales, Surcingles, Stirrup Leathers, Curry Combs, and Brushes, &c.

ALSO,

A few Pair of Large Pier Glasses, in handsome Gilt frames.

At 12 o'clock will be put up a Double Poled Tent.

Bombay, 25th Oct. 1826.

SALE.

BY PUBLIC AUCTION
On Friday the 27th Instant.
ON BOMBAY GREEN
ADJOINING Mr. ANDERSON'S LIBRARY,

GLASS-WARE, Gold and Silver Watches, French Perfumery and Handle Organ.

Bombay, 25th Oct. 1826.

FOR SALE,

GENUINE SHIRAZ, RED WINE, in Carboys, at 12 Rupees each, at Mr. MIGUEL'S, opposite to Eduljee Cursetjee's Sons' Shop.

Bombay, 25th Oct. 1826.

Advertisement.

APPLICATION having been made to the Supreme Court of Judicature at Bombay, that Probate of the last Will and Testament of ANNA MARIA ORMOND deceased, widow of DAVID ORMOND a Surgeon in the Military Service, of the Hon'ble the United Company of Merchants of England trading to the East Indies on their Bombay Establishment deceased, may be granted to GEORGE MOOR a Captain in the said Service, the Executor therein named; all persons concerned are hereby apprized thereof.—Dated this 23d day of October 1826.

E. C. MORGAN,
PROCTOR.

For Freight or Passage

TO LONDON,
THE FINE SHIP

Britannia A. 1.

BURTHEN 500 TONS,
Wm. Bourchier R. N.
COMMANDER,

WAS to leave England on or before the 12th July, and may be expected here early in November.

This Ship has had a thorough refit in England, been new coppered, had her accommodations altered and enlarged and is now as neatly fitted up as any vessel that visits Bombay.—The Britannia carries a Surgeon and will be dispatched from this in December.

Plans of her accommodations may be seen and further particulars learnt, on application at the Office of Messrs. ADAM SKINNER AND Co.

Bombay, 25th Oct. 1826.

For Passage to London

THE BARQUE

PROVIDENCE,

J. WANCHOPE,
COMMANDER,
BURTHEN 380 TONS,

WILL Sail the latter end of November, her cargo being already engaged: can accommodate a few passengers. For farther particulars Apply to the Commander on board, or JEHANGEER NOWRAGEE NASARWANGEE'S office.

Bombay, 25th Oct. 1826.

For Freight and Passage

THE SHIP

SOPHIA,

TO SAIL for BASSADORE, BUSHIRE and BUSSORAH, about the 15th November next. For particulars apply to SHAIK DHOYE BIN OWNE.

Bombay, 25th Oct. 1826.

For Passage to London

TO CALL AT ALLEPEE
THE NEW RIVER BUILT SHIP

RUNNYMEDE,

300 TONS
ON HER FIRST VOYAGE.
Charles Kemp Commander,

THIS Ship Carries a Surgeon, and has Good accommodation. Will Sail in all November. For particulars enquire at the Office of Messrs. RANKEN AND SAUNDERS.

Bombay, 25th Oct. 1826.

To the Editor of the Bombay Gazette.

DISAVOWAL OF KINDRED.

"Write!" said the voice, I trembled for my heart was heavy, yet at the 3d time, "write!" Echo said, "do, but let it not be malignant nonsense."

"The unwearied research of his former publication (the 'Wonders of Elora,') supplied discoveries for the philosopher, and illustrations for the historian; the book before us may serve to guide the statesman or the economist." He must expect, for the fearless avowal of his sentiments, to be openly assailed by calumny and covertly attacked by insinuations; but while Adam, Munro, Malcolm, Elphinstone, and Hastings think and suffer with him, contumely may be esteemed the test of merit."

GREETING.

In admitting thee into the circle of consanguinity, I must be informed more fully of thy claims to Brotherhood. If however, recommended on the score of mutual advantage and assistance, I am sorrowfully obliged to decline the high honor intended. If I must adopt a Brother, it must be one, that can be useful, and it is indispensably necessary, he should possess a little common sense, a small share of judgment, and a trifle of knowledge. If he have some experience and can establish a claim to political integrity and honesty, it will go far in his favor, but without these advantages and recommendations, I must decline all kind of kindred, nor will I have any one foisted on me for the purpose of a temporary glimmering drawn from me.—There can be but one Sun in one sphere, and when my vivifying course has performed its daily tour, by its light and heat vivifying and nourishing animated nature, when its effulgence sinks into other worlds, and for a time darkness ensues, then the little stars may shine, till then, they must be content with their natural dimness and obscurity. You say in the exquisite piece of composition with which you lately honoured the Gazette (lucky newspaper) "*I have ever loved darkness, rather than light, my name is Koolaboo*"—this I can readily believe or you would not hide, and shuffle behind a bank, enveloped in mystery, indeed, the blessed Scriptures, which with great puerility you somewhat impiously travesty, say "their deeds are evil, and they like not the light"—but without being so uncharitable as to apply this to thee, dost thou mean the solemn foolery and wire drawn verbiage in the Gazette, to plead thy cause, in obtaining the desired alliance? Chesterfield I think says "a pleasing first appearance is the best letter of recommendation" with thee it is otherwise, and the poor and unintelligible countenance of thy literary face, would induce mankind to think me mad, did I not reject with disdain and loathing, the proffered relationship; but thou mayest comfort thyself with another quotation, "every man should be pleased with his own face," and as every parent thinks its new born brat however plain and unsightly, the handsomest child in the creation, so it is with thee; thou oughtest to be pleased with the offspring of thy creative and sublime fancy, that it is not more beautiful and perfect is thy misfortune, not thy fault.—It is very hot and relaxing weather, so I cannot get through all the labored trash put before me, truly it is said

"Writing is not now as then
"For it is grown a desease of men"—

and it is really a bore and punishment to wade thro' such stuff, so I asked my amanuensis to see if there were a tangible point, or any thing in my way. My faithful and zealous scribe read aloud as follows—"*yet would I Koolaboo, withhold (so far, as my feeble efforts can withhold) every thing tending to better this mentally darkened and deluded race*" what at the old trade of whining cant, hyprocrisy and foul misrepresentation again?

Have not the "*darkened*" and "*deluded*" race a press of their own? Have they not papers of their own? Have they not the best English works to translate and transcribe? Have they not pecuniary assistance from the Local Government and individuals? Have not the Missionaries unrestricted actions? Have not three Colleges been established upon the most liberal and tolerant principles within the last 5 years in this country? Much has been done, and is doing, as far as can safely be performed, to remove the "*darkness*" and subdue the "*delusion*," ungenerous and unjust man is the *darkness* and *delusion begot and festered* by the Government of the Country or by its servants? Will nothing satisfy thee and thy party, dost thou want to go to the Durbar, to the "Lines" to the market place, to preach thy political doctrines? Art thou a Britain or a servant of the King or Company thus covertly to traduce the State which thou oughtest to support, or art thou a stranger that thus malignes the Government that protects thee? As perhaps the passage alludes to me personally, we will go a little farther and the world shall judge between thee and me. Let them read the subjoined written three years ago (by me) and there say whether I am the advocate for practising "delusion" and keeping the natives in "mental darkness." Mr. Hmme says in speaking of India.

"*In India there were Bible Societies, literary societies, and public institutions to a very great extent. They had education societies, school-book societies, orphan societies; in short all the means of diffusing information.*"

I think this pretty evidently proves that the moral condition of the people and "their interests" are properly attended to. Do this, and do more *if possible* for them: but let not us, a handful of strangers, give them the power of publishing what they please; or, what is perhaps worse, of allowing factious and designing persons to do it for them. Any thing but a free press; or, in other words, the power of doing mischief.

Nothing can reflect greater honour on the Indian Governments, or be a source of prouder satisfaction to this country, than the great number of colleges, charities, institutions, and asylums for the ignorant, the distressed, and the needy, whether natives or Europeans, that India has to boast of. In England, this circumstance is so imperfectly known, that the great mass of the people have no idea that anything of the kind exists; for they are taught to think that our Eastern Governers are nothing but tyrants, sensualists, and knaves, regardless of every thing but dominion and the acquirement of wealth. So far is this from being the truth, that there is scarcely a public society or institution, that the Government do not munificently assist, and always do their utmost to encourage. In India, the British character shines with double splendour; the persons there have greater means, and less cares and troubles to hamper their exertions; and their object is, the moral improvement of the people, and benefiting their conditions.

"Voice" P. 128.—

This is what I have said and will maintain, till time which is constantly but unperceptibly working changes in the affairs of Men and Countries, shall totally have changed the order of things in this Country—One more extract from K and I have done.

The brain hath more than the heart to do in writing—tack sentence to sentence and you may suck the honey of another's labour—what is a sentence? but a few words (never mind their meaning)—what is a page but some sentences (regard not their connection)—and what is a book but many pages (sometimes alas! too many) print it and call it a wonder. —A wonder of what? never mind few will read it, tis only for the back of the book—this is book-making.—

It is to be regretted that the writer of these pithty lines did not practically adopt his own theory, had he, there would probable have been some sense and truth in his writings, which is not the case as it now stands. The intention as regards me is not to be mistaken, and the cloven foot is easily discovered. It will be very *consoling* for him to know that the "wonders" is in a second Edition nearly expended. The first was 1500 Copies at 16 Shillings, the second edition with an additional plate (view of Poonah) and 50 extra pages was 18 Shillings, and consisted of 1000 Copies the third edition *will* be 50 additional pages of purely local Bombay Matter, it will be one Guinea—So much for the "*back* of a Book" and "book making" but whether in the "Wonders," "The few Hints," "The Hydrabad pamphlet,"

"The Voice," "The New Map of India,"

"The Road Directory," &c. &c. &c. there are blemishes and inaccuracies, let Koolaboo expose them in a manly and generous way, with his signature affixed, and not skulk in the dark and stab at pleasure. It will give weight to his sentiments, become him as an Englishman, and must gratify his admirers, who at present are quite in ignorance as to the Great Unknown, If diffidence keeps him in the back ground we can only lament, that so much genius is lost to the World and the possession of it buried in obscurity.

"Wasting its sweetness on the desertair,"

But let me tell our Bombay Hampden in a parting word, that if he can write as much in as great variety with like success, as the person against whom his insinuations are level'd, that person will say (what Koolaboo must know is not the case) he is a clever fellow—

We shall now see by the subjoined what the wise, the learned. and the impartial have said, a Phalanx certainly, altho', not comparable to Koolaboo, a Host in himself, the boast of Bombay, and admiration of Western India.

Yours obediently
B.

16th Oct.
Cā-lāb.

"The excavated temples of Elora have never yet been shown to the public in a familiar and popular view, if we except the slight sketches that have been taken by several passing travellers; nevertheless they may justly be ranked among the wonders of the world."—*Asiatic Journal.*

"It contains many curious facts, and supplies a more substantial account of Elora than any which we have met with in the Eastern Philosophical Publication."—*Literary Gazette.*

"In the space occupied by his residence at Arungabad, we meet with a general development of his views relative to India. With all its faults, we feel justified in calling the attention of the English reader to this production, as the never-ending gossip to which we principally object relates chiefly to Indian affairs."—*Oriental Herald.*

"We cannot close this volume without the wish that it may attract a notice more important to the author than that of the mere reader. Capt. Seely has exhibited a research and an ardour of acquirement which does honour to himself and to the Indian service; we will go farther, and say, without hesitation, that to show their sense of his industry and intelligence would do no less honour to those in whose hands the patronage of this mighty Indian empire lies."—*Universal Review.*

"It is not solely to the Temples of Elora that Captain Seely confines himself. He gives an interesting description of the countries through which he travelled, and an account of the state of society in India. His observations, also, on the Anglo-Indian policy, and his remarks on the attempted conversion of the native by the missionaries, are entitled to serious notice."—*Literary Chronicle.*

"No production of the present winter is more worthy of attention in every sense. It is a voyage of discovery, and the novelties are not only very numerous, but are most ably brought under the eye of the reader."—*Monthly Magazine, No,* 398.

"Much of this volume, much more indeed than could have been anticipated from the title-page, is occupied by personal narrative, and disquisitions on the most important topics relative to India. For spirited yet minute detail, Captain Seely may rank with his amiable predecessor Mrs. Graham, and the author of "Sketches of India,;" and in his opinion on oriental policy he is ever guided by sound sense and enlightened patriotism."—*Dorset County Chronicle, June,* 1824.

"The author has not confined himself to the Temples of Elora, for the work is interspersed with some interesting notices of the country and state of society in India."—*Gentleman's Magazine.*

"The appearance of this Work is important to all; but the information it contains is invaluable to those whose prospects or connexions belong to the Eastern World; and we shall indeed be surprised if it be not adopted, even as a book of study, among the numerous youths who are destined to fill situations in our Eastern dominions."—*Literary Review in the Bath Gazette.*

"Every lover of science will regard this work as a boon conferring honour on its author and benefit on the nation."—*Critical Gazette.*

"Although we have so many descriptions of India, we did not, before the appearance of the present volume, possess any intelligible and accessible accounts of the singular antiquities of Elora."—*New Monthly Magazine.*

"The preceding extracts will show that the author writes with acumen, taste, and knowledge, with the zeal of benevolence and the solidity of philosophic reflection."—*Sun Newspaper, May* 6.

"The interesting work respecting the Temples of Elora appears to have excited a universal degree of interest."—*Morning Post, May* 19.

"May not the reader expect wonders in a volume with such a little? He will not here be disappointed; Flora does indeed present wonders, and Captain Seely describes them with a feeling and warmth that carries the reader along with him in his detail."—*Star Newspaper, May* 21.

"Much and various information of a useful quality will be found in this publication."—*La Belle Assemblée, No.* 189.

"We have been greatly pleased with Captain Seely's Book," &c. &c.—*Somerset House Gazette.*

To the Editor of the Bombay Gazette.

DEAR SIR,

If you think the following observations of a friend of mine, relative to the Military Fund, worthy of a place in your interesting Paper, I shall feel obliged by your inserting them.

In addition to the hint which he gives respecting the publication of the laws as at present in force, I think he should have given another about the annual statement of accounts for the official year ending the 30th April last, which is not yet circulated. It is I conceive long overdue; and when discussions respecting the Fund are so many and various, it is the more necessary that subscribers should be in possession of it; for, that they may be enabled to form a correct opinion of the state and prospects of the fund, it appears indispensibly necessary, that they know not only what the laws are by which it is regulated, but also the actual circumstances in which it is at present placed.

I remain, Dear Sir,
Your most obedient Servant
NOTER,

Notwithstanding the number of letters that have appeared in the public news Papers, respecting the stability of the Military Fund, I am one I will venture to assert, among many more subscribers, that have not the smallest fear on the subject of its duration and prosperity.

"The directors in their circular No. 41 say "that altho' they do not entertain any doubts "respecting the stability of the Military Fund "yet as it appears from communications re- "ceived, that such doubts exist among some "of the subscribers, they have resolved to "submit the regulations through the proper "channel, by an early opportunity, for the "examination of a professional Gentleman in "England, on the receipt of whose report, "the directors will be better able to determine "whether any, and what modifications, it may "be expedient to suggest for the considera- "tion of the subscribers."

I fully coincide in opinion with the directors in the first part of their circular, but must confess differ with them, as to the necessity of consulting a professional man, as I should cirtainly imagine, their own judgment, assisted by the sentiments of the subscribers, would be quite sufficient to decide on any alterations they may consider it necessary at any future period to make, and the 3rd article of the 5th Section, of the regulations, clearly points out the mode, and gives the directors full authority, to adopt those measures if they consider it absolutely necessary, why then, I would ask, should we be in fear of the Fund becoming bankrupt? it has been established since November 1816, and by the last statement I have seen, it appears the principal of the funded property was on the 30th April 1825 Rupees 7,56,690 2 75.

If I may presume to offer an opinion on the subject, I should undoubtedly say the Fund can never be in danger of failure, so long as it possesses a principal of seven lacks of rupees, and that the annual donations, subscriptions, and the interest, defrays all expences of annuities, passage money &c. will all expences of Secretary establishment &c. so as to leave the principal untouched, and in case at any period it should appear, that any part of the principal of the fund is likely to be required, it will then be the duty of the Directors, to use the authority and power they are vested with, by the III. Article V. Section and reduce the amount of annuities; suppose a Colonels widow to £ 360 per annum, a Lieut. Colonels 300, and a Majors 250 £, and leave all other ranks and the Childrens Pensions as they are at present; if it is considered necessary, I should imagine the directors have it in their power, by the above article, to make a reduction similar to this, if the prosperity of the fund is in danger, immediately. Having wrote so far, I beg to suggest, the necessity there appears to exist, of having a revisal of the regulations of the Fund published, and that in future all new rules passed, be printed on the same size paper and type, and circulated to corps and departments, as we have not had a single new rule inserted in the Book of regulations, since it was published in 1819: the consequences are, more than half the subscribers are unacquainted with the rules of their fund, as it is impossible to remember without the assistance of a Book of reference all new regulations that are passed.

To the Editor of the Bombay Gazette.

DEAR MR. EDITOR,

I have but last night finished a Translation of Talib's letter published in your valuable paper of the 11th Instant, I could not do it before, being engaged in other avocations. The learned Orientalist seems to have fully established his title to the most grateful thanks of the Parsees of India in general, for so ably discusing a question, the intricacy of which, must have baffled the exertions of many interested in the development of those points, but for the pen of this able scholar and might have remained in oblivion, as it has done for nearly a century past. The perspicuety and ease with which the subject is treated, and the ingenuity displayed in the mathematical solutions of the several points, while in quest of another object, as he says, in the concluding part of his letter, shew at once how much more Taleb could do, should he again resume his pen upon the subject.

The Translation will appear perhaps in the next Sumachar, and the Author of the Original will claim my acknowledgement to point out, for the satisfaction of the Native Readers any error that I may have been encautiously led to commit in the version, although I endeavoured to the utmostof my ability to convey the idea of the Original, I was obliged to take those liberties which a translation from one language to another renders indispensible.

Talib has already excited the admiration of many persons interested in the subject for his almost miraculous disclosures of several important facts in dispute, that could scarse ever been dreamed of by them, and if a final reconciliation be brought about between the contending factions, he may deservedly gather the laurel of being a principle contributor to the happy result.

Should this diffusion, Mr. Editor, of a sincere and grateful heart deserve a place in your next, you will by giving it publicity confer a very great obligation upon.

Dear Mr. Editor.
Your very Obedient Servant
ZURTOSHTEE.

Bombay 20th October
1826.

To the Editor of the Bombay Gazette.

MR. EDITOR,

Any Newspaper discussion on the state of the Military Fund is rendered unnessary; and I only address you now, to rectify an error of one of your correspondents. I can assure Calab that the two Ss. in the rival papers are different persons, and I was not a ware at the moment I used that signature that I had been anticipated in its employment.

Calab cannot respect the individuals composing the directory at a higher rate than I do. In every association the perfection of plan must rest with the members or their deligates, and if that plan shall be found defective, it is but urging a plain deduction,—that it obtained that quality from the imperfections of its composers. The goodness of motive and the zeal of action, may merit the highest meed of praise, altho' in the frailty of humanity, error may rise with the deductions of judgment—and perfection only, be obtained as the result of long experience;—be deductions from the knowledge of good and evil.

Humanitas has replied to some of S's. remarks in the Courier. Some expressions I think pity he should have used. Let humanity draw a veil over the misfortunes of our fellow exiles,—should any have wedded, as he surmises, they have surely enough of bitterness at home, without its being promulgated in print. "The galled horse will wince." The question is one indeed most intimately connected with religion. The restriction throws a stigma on those whose fault it is, not that the evil was. It places a barrier on marriage, and whatever does that on parties opulent enough to enter into that state with propriety—is productive of much evil. All the prudent who would not marry without some provision for future contingencies, and who have not been able to accumulate money enough for that purpose—and who either cannot meet with Europe born Ladies or meeting with them, cannot gain their affections, must remain single or at least unmarried, because they are hereby prevented from espousing the daughters—to the 4th—generation—of their brother Officers. - - - - -

But men will marry or do worse.—ex. gr. "TAKE THE WHOLE WORLD AS IT IS."

"It was not found meet that man should be alone."—A Lady once added to the parson who quoted this—"nor for woman neither." Mind you she was a married Lady with three or four Children, and has had I suppose some five or six since—Sons and daughters.

There is in fact a dreary famine of Ladies in this country of "Solitude and self engrosement." You in Bombay know nothing about it. I was upwards of three years, that I saw not the face of an unmarried Lady but one.—Only think of that Mr. Editor, and many have been much longer in that predicament. - - But to conclude. The permission to benefit by the fund, of Ladies who have a little Eastern blood, and withal the oriental Eye, would be hailed as a great boon by them; by many of the Subscribers, and in place of being prejudicial, would I conceive, be the very reverse to religion and morality.

Let not those of unmixed origin opine that others shall have the same privileges as they themselves possess, rather let conduct decide the point of respectability. We of the land of freedom and generosity, are yet most narrow in some of our prejudices, and inconsistent in some of our notions. We say that all mankind are equal, and that locality and origin are in themselves of little consequence, yet it will be conceded that we generally estimate foreigners as inferiors, and that it requires either considerable experience, or no small effort of mind, to divest ourselves of this notion.

S.

To the Editor of the Bombay Gazette.

THE MANUSCRIPT OF KOOLABOO—CONTINUED.

And behold! one—unto whom had been entrusted one of these excellent things men call Printing presses—was mighty joyful, rubbed the palms of his hand's, and did chuckle at his happy fortune, because of the same; yet did he ever live under a sore oppression of fear lest, he should in the slightest degree utter that which might displease his masters. And while he beheld with complacency the increase of substance? which flowed to him he trembled lest they, in their anger might—from the field wherein he now can spread so fairly—cast him as a weed unworthily to sprout in the bright sunshine of their favour? * * * * * Yea—he grips, even now, as hard to retain this pleasant thing as the spirit of a inner cleaveth to this world, in wild terror of the next: and separates with the toil of an husband-mans opinion's which did he utter, would make his good fortune pass away like the snow of winter from his grasp.

And this man who held the printing-press, beheld with envy him of whom, I have written whose sandal had kicked the dust of the journey against the gate; of many an eastern-town, and whose sayings, by reason of their treating of eastern-lands, are known to

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me: by the name of the Oriental Herald *** Yea—this man whose knees shook lest he might lose his substance did sorely envy the traveller, and greatly overcome with anger, believed that the things he wrote were false when they were not so; and did there upon speak of him not in sober, and reasonable terms but used vain and thriftless words after the manner of a weak and womanish reviler, Yea—he did nought but repeat after the way of one mad past cure——he lieth!—he lieth; nor hath he, the most trivial shadow wherein to rest that which he hath uttered!—I repeat again he lieth!—after this manner went he on as though the world were yet a suckling, and men fools to take that for gospel, which he pleased to assert, merely because he spake it truly this hath not been bettered by any jest ancient or modern—fine times these, and rare! when one writing himself Editor shall, from the throne of a petty despot say—hear and believe my story for no nther reason than that it is mine! wise must his heart, be who dare say that such and such a thing never happened—what then, is he omnipresent, doth he see every thing which doth happen, is his memory always trust worthy of that he once knew? alas! that man should be so ready to bruise the heart of his fellow, and alas! that he so ill knoweth his own!—

Allow this man, who is so ready to be the Quixotte of those who never need his help, and who ask it as seldom,—allow him to be the puppet of an hour to tittle—tattle to the public, so that he attempteth not a flight past his reach—so that he letteth not passion fill his place——so that he injureth nothing—to better that which is faulty who can expect from one who Quivereth at a nod?

Now my vision was altered and behold one said—Thou hast sadly erred, and as a Courier who runneth heedlessly over his way stumbleth, and hurteth himself sorely by reason of his fall. So hath it been with the, for thou hast done wrong in speaking the word of scorn unto him, who hath visited strange lands: more over there is a manuscript of the sayings of a sage who once ruled in the east, and its date is the 26th day of that Month men call October, and the year wherein it was written is numbered. One thousand eight hundred and twenty-five; and I fear me much that thy error, because of this writing, will one day be made manifest to thy shame; for he, whose teeth thou hast flung the mud of foul language, is as a mountain——thou art an ant's-hill——he is an oak of ages——thou art the sprout of a tender sapling. He is an eagle——thou art an owl——words, were they the most powerful man can divise, could not make known the difference between thee, and him whom thy unmeaning——thy besotted passion hath slandered.——Tremble therefore as the hound doth, beneath the whip of the hunter for thou wilt be sore scourged, and snarling is thy only reply!——

Now beheld I, the countenance of the man who ruleth, printer's-devils, sore troubled, and he held in his hand that manuscript where of I spake, and for a while seemed as though he were not a living man, until some what recovering himself, he even gazed upon the writing, rubbed his forehead, and anon said who would have thought it——woe unto me, and more also! that I should have forgot this—I have brought my pig's to a fine-market, woe unto me! woe unto me!

Then did he take heart, and although one did attempt to set before his eyes the folly of his way—he replied, I will only give the end of thy reasonings to the public and even then, I will change thy words so that their import may be little comprehended——Yea—I will dip them on the thought of my own heart until they be altered as the garment taken from the trough of the dyer. I desire ye will let me tell the story of this matter just as it pleaseth myself though, I should make it as unlike what it really is as the sands of the howling desert are unlike the rich banks of the Nilus——now when I heard this, methought that for once, I could not restrain my indignation——even I, accustomed to kiss the..... ..hand of power, felt nausea at this crying abuse, and said——that it never appeared unto thee oh! man, who art the son of Adam that (as with thy first father) error ever followeth the steps of thy weakness? if it never did appear, then, in verity, hath experience in vain lit her lamp over thy wanderings.——But if it hath really so appeared to thee, let the thought thereof lead thee to meditate more on thine own works than upon those of thy fellow——let it teach thee to say——who am I, that I should say, let me uphold thee, for thou slippest!

KOOLABHOO.

To the Editor of the Bombay Gazette.

SIR,

May I beg the favour of you to insert the following Extract from the "Ayeen Akbery or, the Institutes of the Emperor Akber" in proof of the existence of a "*Kubeesa*" in the Persian Æra, a subject at present under discussion among the Parsees.

K.

"The Æra of Yesdijurd, the son of Sheriar, The son of Hormus, the son of Noorshirvan.

It began from the accession of Gemshed to the throne of Persia. Every succeeding monarch gave his own name to it, so that Yezdijurd only followed the example of his predecessors. The years are like the Syro-macedonian, but they intercalate only once in one hundred and twenty years, when they make the year to consist of thirteen months. The first intercalation was the month Ferverdeen, which was reckoned twice under the same name. The second was Ardebehest, and so on. Scarcely had Yezdijurd given his name to the æra than he was dethroned, and the accounts of intercalations were entirely neglected."

EXCHANGE.

On London 6 month's at 1 | 9 to 1 | 10.
Calcutta . . 90 days 103 Bombay Rs. per 100 Siccas.
Madras, . . 30 days, 99 B'y. Rs. per 100 Madras.
A five per cent loan open.

THE GAZETTE.

BOMBAY.

WEDNESDAY, 25TH OCTOBER 1826.

The arrivals since our last are the armed Ketch Chaser, Mossa Peerbhoy Syrang, from Surat; the Brig Koorvat Moosabhoy Nacqudah, from Johannah 2d September; Ship Sophia Mahomed Bin Eusiff Naqudah, from Bussorah 1st September, Bushire 21st September, and Muscat 9th October; the Grab Sallamty Raimany, Sumsoodeen Nacqudah, from Zanzebar 17th September; Ship Runnymede, Charles Kempt Commander, from Calcutta, and the Ship La Constance A. Regnaud Commander, from the Mauritius.

Passenger per Koorvat.—The King of Johanah and suit.

Do. per Runnymede.—Col. T. Wilson Bengal Army, Capt. Wainwright H. M. 47th Regt. Lieut. Clark, Lieut. Pitcher, S. A. Surgeon G. Leggett, Lieut. Greer, Lieut. Richardson H. C.'s M. and Gunner Baker late of the Teignmouth Cruizer—with the subordinate officers of the Medical Department late with H. M. 47th and 67th Regiment.

The departures have been the Ship Moro Castle, J. B. Smith Commander, to Liverpool, the H. C.'s Cruizer Nautilus, Lieut. Kinchant Commander, to the Persian Gulph, and the armed Ketch Chaser to Surat.

Passengers by Moro Castle.—Lieut. Foster Engineers and Ensign Scraven.

Through the kindness of a friend, we have received Port Louis Newspapers to the 24th July last, but as they contain neither English nor French intilligence of a later date than February last, nor any thing else in fact beyond grotesque accounts of fat negroes & negresses, our time would have been thrown away in attempting to translate that for which we should have got neither thanks nor reward.

We congratulate the community of Bombay on the arrival of the King of Johannah whose hospitality and kindness are so well known to all who have ever touched there on their way to India; we have had the honor of being introduced to His Majesty by his Prime Minister Admiral Rodney, and from the short conversation we had with him we were satisfied that he is possessed of a very quick discernment and a ready apprehension of all that is passing around him. His Majesty we should suppose is not above thirty years of age, has only been three years upon the Throne & now visits Bombay for the first time. We are happy to add that the visits paid to His Majesty since his arrival have been most numerous and respectable, and that Government with their usual liberality are to pay his expences during his stay at Bombay.

We beg to apologise to our readers, for the non insertion of the Government orders, as neither our time nor space would permit us to give them this week, in consequence of their very great length, and the time that was necessary to devote to Lieut. McKenzie's Court Martial, to which we have already pledged ourselves to give our exclusive attention.

BOMBAY.

ARRIVALS.—Asst. Surgeon Robt. Power, Madras Establishment.
Cornet and Adjt. J. Harrison, H. M. 4th Lt. Drs.
Capt. J. Graham, 7th Regt. N. I.
Ensign C. Budwood, 3d Rt. N. I.
Ensign Doherty, 25th Regt.
Lieut. Pope, ——— 22d Regt.
Capt. J. Jopp, Depy. Surv. Genl.
Lieut. Cumberlege, 4th Lt. Drs.
Capt. Spiller, Comy. Ax Horse.
Capt. Wm. Rollings, 2d Grs.
Lt. Hopkins, 25th Regt.
Lt. Bulkley, 20th Regt.
Lt. J. Dawes, 13th Regt.
Lt. Col. T. Pierce, 5th Regt. N. I.
Lt. Col. T. Wilson, 28th Regt. B. N. I.
Ensign C. S. Munt, 6th Regt. N. I.
DEPARTURES.—Lieut. A. F. D. Frazer, 17th Regt. N. I.
Ensign C. S. Ceddes, 24th Regt. N. I.
Ensign W. G. Duncan, 24th Regt. N. I.
Ensign A. Thomas, 22d Regt. N. I.
Ensign Walker, 23d Regt.
Ensign Ash, 20th Regt. N. I.
Ensign Munro, 16th Regt. N. I.
Ensign W. R. Ralph, Queen's Royal.
Lt. and Qr. Master A. Crispin, 16th Regt. N. I.
Ensign A. S. Wade, 18th Regt. N. I.
Capt. Spiller, A. Horse.
Surgeon G. Stuart, 16th Regt. N. I.
Asst Surgeon J. Don, 20th Regt. N. I.

NAUTICAL CHRONICLE AND NAVAL REPORT.

BOMBAY.

ARRIVALS.—Oct. 20th Armed Ketch Chacer, Mussa Peerbhoy, Syrang from Surat.

Do. Brig Koorvat, Mussabhoy Nacqudah, from Johana, 2d Sept.

21st Ship Sophia, Mahomed Bin Eusiff, Nacqudah from Bussorah 1st Sept. Bushire 21st Sept. Muscat 9th Oct.

Do. Grab Sallamty Rainmany, Sumsoodin Nacqudah, from Zanzibar 17th Sept.

22d Ship Runnymede, Charles Kemp, Commander, from Calcutta, Sand Heads 8th Aug.

23d Ship La Constance, A. Regnaud, Commander, from Mauritius.

Passengers per Brig Koorvat.—King of Johana and Suit.

Per Runnymede.—Col. T. Wilson Bengal Army, Capt. Wainright H. M. 47th Regt. Lieut. Clark, Lieut. Pitcher, S. A. Surg. G. Leggett, Gunner Baker of the late Cruizer Teignmouth, Lieut. Greer, Lieut. C. Richardson, H. C. Bombay Marine.

Apothecary. J. Hanson.—*Asst. Apy. & Steward.* Wm. Atkins.—*Apprentices.*—Michl. Heain.—Alex. Bryce.—Munroe.—M. McLaughlin.—T. Ross and Lewis Okiely.—*Dresser,* Wm. Hughes, Officers of the Subord. Med. Department late with H. M. 47th and 67th Regt.

DEPARTURES.—Oct. 18th Ship Moro Castle, (Free Trader,) J. B. Smith Commander, to Liverpool.

Do. The H. C. Cruizer Nautilus, Lieut. R. Kinehart, Commander, to Persian Gulph.

21st Armed Ketch Chacer, Mussa Peerbhoy, Syrang to Surat.

Passengers by Moro Castle.—Lieut. Foster, Engen. Ensign Scraven.

SHIPS LOADING.

English.—Boyne, for London.
Recovery, for Do.
Providence, for Do.
Cornwallis, for China.
James Scott, for Do.

CALCUTTA.

ARRIVALS.—October 3. Ship Duke of Bedford, John Parsons, from London 22d March, Madeira, Mauritius, and Madras 11th September.

Passengers from London:—Mrs. Amelia Phillot; Mrs. Sophia Betts; Mrs. Elizabeth Turner; Mrs. Kitchen; Misses Mary Steer, Lucy Eliza Rand, Julia Colebroobe, Eliza Yates, Charlotte Turner, Ellen Turner, Margaret Turner, Mary Turner, and Elizabeth Baraard; Mr. C. G. Mansell, Writer; Mr. Alfred Betts, Free Merchant; Mr. E. M. Betts; Messrs. R. C. Paton, John Danby, and John Turner, returning to India; Cadets R. McDonell, Jeffry R. Piercey, Pringle Shortried, W. P. Jones, B. Palin, and John Butler; Mr. Benjamin Braham; Mr. G. H. Barnes.

From Madras:—Mr. A. Wright.

DEPARTURES.—None.

The Ship Providence, J. M. Ardlie, for Penang, is expected to sail in 6 or 7 days.

The Dutch Ship Colonist and Brig Colonel Young, gone to sea—the former on the 2d and the latter on the 3d Instant.

STATIONS OF VESSELS IN THE RIVER, OCTOBER 3, 1826.

DIAMOND HARBOUR:—H. C. Ships Marchioness of Ely and Prince Regent—H. C. Brig Trusty, passed down.

KEDGEREE:—Duke of Bedford on her way to Town—Eliza passed down.

NEW ANCHORAGE:—H. C. Ships Lady Melville and Dunira—Golconda.

SAUGOR:—Fergusson and North Briton, outward-bound, remain.

MADRAS.

ARRIVALS.—October 13, Brig Theodore, Captain W. Langlois, from Bombay the 26th September and Pondicherry 12th October.

Do. Cutter Recovery, Captain Winther from Coringa.

DEPARTURES.—October 10, H. C. C. Ship Lady Raffles, Captain J. Coxwell, for Calcutta.

Do. Brig Louisa, Captain Halse, for Covelong.

11, Ship Amid Bux, Capt. B. D'Souza, for Calcutta.

Do. Ship Circassian, Captain G. R. Donthwaite, for Colombo and London.

12, H. M. Ship Rainbow, Hon. Captain Rous, for Trincomalie.

MARRIAGES, BIRTHS AND DEATHS.

BOMBAY.

MARRIAGE.—On Thursday, the 19th Instant, at St Thomas's Church by the Reverend Henry Davies, Senior Chaplain, the Reverend Joseph Knight, Church Missionary of Jaffnapatam in the Island of Ceylon, to Mrs. Nichols, Widow of the late Reverend John Nichols of Tannah.

BIRTH.—At Deesa, on the 9th Instant, the Lady of Lieut. Col. Whitehill, 3d Light Cavalry, of a Daughter.

DEATH.—At Poona, on Sunday the 8th Instant, Captain James O'Hara Johnston, of His Highness the Nizam's Service, after a painful illness for upwards of too years which had born with Christian fortitude, and sincerely regretted by his friends and acquaintances.

At Kaira, on the 5th instant, Robert Anderson Esq. of the Civil Service.

At Sattarah, on the morning of the 9th July, Joseph William, second son of Serjeant Major Rowland, 14th Regt. N. I. aged 9 months and 23 days.

CALCUTTA.

MARRIAGES.—At Barrackpore, on the 24th September, by the Reverend Mr. Robinson, Quarter Master Serjeant Hugh Brady Brew, of the 28th Regiment Native Infantry, to Miss Sarah Concannon, Daughter of Serjeant Major John Concannon, of the 20th Regiment Native Infantry.

At Cawnpore, on the 21st September, by the Reverend Mr. Whiting, Richard Laughton, Esq. Assistant Surgeon, to Miss Eleanor Elizabeth Torckler.

At Azimgurgh, on the 21st September, at the House of W. T. Robertson, Esq. Civil Service, Lieutenant Henry Patch, 5th Extra Regiment Bengal Native Infantry, to Miss Charlotte Sturmer, relict of the late John Sturmer, Esq. of Nizamabad.

BIRTHS.—At Garden Reach, on the 2d October, the Lady of Lieutenant H. Hunter, R. N. of a Danghter.

At Howrah, on the 30th September, the Lady of Poyntz Stewart, Esq. M. D., of a Son

At Chandernagore, on the 28th September, the Lady of George Johnson, Esq. of a Son.

At Chandernagore, on the 30th September, Mrs. C. A. Viguiad, of a Daughter.

At Barrackpore, on the 1st October, the Lady of Captain G. A. Vetch, of a Son.

At Purneah, on the 11th September, the Lady of B. R. Perry, Esq. of a Daughter.

At Popper, Mhow, near Allahabad, on the 15th August last, the Lady of Captain Parlby, Agent for Gunpowder, of a Daughter.

At Kaira, on the 25th August, the Lady of John Williams, Esq. of a Son.

DEATHS.—At Calcutta, on the 30th September, Mr. John Jones, aged 59 years and 3 months.

At Patna, on the 20th September, Anne, the second Daughter of Dr. R. M. M. Thomson, aged 3 years and 25 days.

MADRAS.

MARRIAGE.—At the Island of Madeira, on the 18th of April last, at the house of the British consul, Webster Gordon, Esq. of the Firm of Murdock, Gordon and Co. to Miss Theodosia Pollock, only daughter of Lieutenant Colonel Pollock, C. B. of the Madras Army, and Commanding the Light Field Division of the Hyderabad Subsidiary Force.

BIRTHS.—At Madras, on the 5th October, the Lady of Lieut. Christr. Keating, of a Son.

At Madras, on the 7th of October, the Lady of Francis Whitworth Russell, Esq. of a Son.

On the 10th instant, Mrs. Jessy Blacker, of a Daughter.

DEARTHS.—On Friday, the 13th October 1826, Johanna Welkelmina, infant daughter of Mr. S. D. Vanspall, aged 1 month and 24th days.

At Poonamallee, on Saturday, the 7th instant, after a painfull illness of 18 days, which he bore with truly pious resignation,—Mr. Thomas Kelly, an Invalided Serjeant King's Troops, and one of the principal Leading Members of the Wesleyan Missionary Society, at that place, leaving behind him a disconlate Widow and 2 Children, besides a large circle of relations and friends to bemoan his irreparable loss.

On the 8th of October, the infant Son of Francis Whitworth Russell, Esq.

On the 5th of October, Christr. Keating, infant Son of Lieutenant Keating.

On the 8th instant, P. Kesnamah Chitty, the head of an opulent, and respectable family at Madras. His clear, comprehensive, liberal, and honest mind, obtained for him the esteem and confidence of all connected with him. The death of no individual at Madras, for many years, has occasioned more regret, for his benevolence was most extensive.

CALCUTTA.

THE ARMY.—We congratulate the Officers of the Honourable Company's Bengal Army, on the near prospect of their wishes being at last fulfilled by the establishment of the much and long talked of Military Retirement Fund. Lord Combermere has given his sanction for a Public Meeting of such Officers of the Army as are desirous to support the formation of such a Fund, in order that the matter may be taken into consideration, and a Committee appointed to reduce into order, and to carry into effect the views of the Meeting of the Army. The 16th of October has been fixed on as the day of Meeting—and the Meeting is to be held at Calcutta in the Town Hall at 10 A. M.:—

MEMORANDUM.

The Sanction of His Excellency the Right Hon'ble the Commander in Chief having been obtained for a Meeting of Officers of the Hon'ble Company's Bengal Army for the purpose of appointing a Committee from their Body,—to enquire into the expediency, and arrange the Formation of a Military Fund,—The attendance of Officers who may be disposed to support the measure, is requested at the Town Hall on the 16th October, at 10 A. M.

W. L. WATSON, *Adjt.*

Calcutta, 23d Sept. 1826. *John Bull.*
Ben. Hur. Sept. 26.

SINGULAR CHARGE.

SINGULAR CHARGE.—Extract of a letter from Portsmouth, dated April 19, 1826:—"The following is the news of this place:—A Capt. in the Navy, the son of an Officer of the highest rank in that profession, has been apprehended here on the Mayor's warrant, charged with an assault of a capital nature, on a woman belonging to this place. The friends of the young officer who is most deservedly respected, have thronged around him, offering bail to any amount (satisfied that the charge will shortly resolve itself into a base attempt to extort money), but their efforts up to a late hour yesterday, have been unavailing. A near relative of the gallant officer, who is a member of his Majesty's Council, has been applied to and several noblemen and gentlemen (brother officers of the accused), I understand, left London yesterday, to vindicate the character of their friend, whose gallantry and irreproachable conduct in every relation of life place him above the suspicion of any such offence."—*Morning Paper.*

We are in possession of the name of the officer to whom the above transaction relates. He is a Captain of very high connexions, at present in command of one of his Majesty's ships, but as he is at this moment lodged in Winchester Goal, his duty is, of course, delegated to his first lieutenant. The version of the "Maid of the Inn" is very different from that of the *gallant* son of Neptune. In her deposition, we understand she very strongly affirms, that at an advanced hour of the night, her bed-room was invaded; that she was "locked in the arms of sleep," and that at the moment of awaking, she found that the gallant officer had taken a most unfair advantage of her situation. According to the communication made to us, the affair passed over for the night, and no intimation until the next morning was made to the Gallant Officer, nor was the least suspicion entertained by him, that a charge of so serious a nature as that of rape would be prefered against him. The Gallant Officer denies, we understand, the crime imputed to him, but he does not we believe, deny, that from some significant fleshes from

"The light that lies
In woman's eyes

he was induced to believe that she would not be displeased; he were "to steal a few hours from the night" to visit her; neither does he deny, we believe, that acting under the influence of this intimation, he did venture to obey the soft summons which "the nods, and becks, and wreathed smiles" of this bewitching bar-maid imposed upon him. That his visit was less acceptable than he apprehended, there is too manifest reason to believe from the strong terms of her deposition, which obliged the Magistrates to comit the gay intruder to Winchester Gaol. The affair has excited great interest in the naval and military circles of this town, in which the gallant officer is deservedly popular. However, we understand he has not even as yet, been admitted to bail. A noble Lord, connected with him, left town yesterday for the purpose of endeavouring either to produce an accommodation of this unpleasant transaction, or at least to see if the deposition of the female be too decided and strong to prevent the offence from being bailable. Through the successful mediation of the prisoner's friends, it may not perhaps proceed further in legal investigation. We at present forbear from gratifying public curiosity by a disclosure of the names of the parties.—*Morn. Chron. April* 23.

COURT OF KING'S BENCH.—APRIL 26.

ALLEGED VIOLATION.—On a former day Mr. Carter

(Continued after the Poetry.)

Poetry.

THE NORTH-WESTER---BY JOHN MALCOLM, ESQ.

They were the first
That ever burst
Into that silent sea!—COLERIDGE

'Mid shouts that hail'd her from the shore
And bade her speed, the bark is gone
The dreary Ocean to explore,
Whose waters sweep the frigid zone;
And bounding on before the gale,
To bright eyes shining through their tears,
'Twixt sea and sky, her snowy sail
A lessening speck appears.

Behold her next, 'mid icy isles
Lone wending on her cheerless way,
'Neath skies where Summer scarcely smiles,
Whose light seems but the shade of day;
But while the waves she wanders o'er;
Around her form, they sink to sleep;
The pulse of nature throbs no more,--
She's chain'd within the deep!

Then Hope for ever took her flight;
Each face, as monumental stone,
Grew ghastly, in the fading light,
In which their latest sun went down;
And ere its disk to darkness past,
And closed their unreturning day,
The seamen sought the dizzy mast,
To catch its latest ray.

All other secrets of their fate,
From darkness would the muse redeem;
Unheard of horrors to relate,
Which fancy scarce may dare to dream:
Thus much we only know---they died:
All else oblivion deeply veils,
And channels of the waters wide
That tell no babbling tales.

For there were wishes, longings, fears,
The sleepless night, and ceaseless prayers,
Hope gleaming, rainbow-like, through tears
And doubt, that darken'd to despair!
Suns, seasons, as they roll'd away,
No light upon the lost can shed;
Their tale a secret till the day
When seas give up their dead.

ANACREONTIC.

Yes! I'll revel in joy, and will drink deep of bliss,
While my brow with a wreath of green myrtle I'll bind;
And though Cynics may rail at a world such as this,
Still I fancy no fairer or brighter they'll find.

For since Mahomet's heaven is fabulous quite,
And flown are his Houries, and faded his bowers,
'Tis in vain that you look through the stars of the night,
For a planet more splendid than this one of ours.

Where---where will you find in that star-studded sky,
Although thousands of worlds are seen glittering there,
A gleam from above like the fair Rosa's eye,
Or a tendril of gold like a tress of her hair?

Ah! no where; for wine, and for mirth, and for love
I am sure that no happier world has been known!
And should others discover a dearer above,
E'en let them lay claim to the spot as their own.

W.

(Continued from the third Page.)

obtained a writ of Habeas Corpus, directed to the keepea of his Majesty's gaol for the county of Hants, commanding him to bring up the body of a gentleman of rank in the Royal Navy, standing charged with violating the person of a female at an hotel in Portsmouth, in order, that the prisoner might be admitted to bail until the next Assizes. A *certiorari* having at the same time issued, to return the depositions taken before the committing Justice, the keeper of the gaol brought his prisoner into Court at an early hour this morning, and the depositions being returned, in obedience to the last-mentioned writ, were read.

The COURT (the Lord Chief Justice and Mr. Justice Bayley only being present), under all the circumstances disclosed in the depositions, ordered the prisoner to enter into his personal recognizances, in the sum of 4,000*l.*, and to find four sureties in 1,000*l.* each, to appear at the next Assizes, for the country of Hants, and there to abide such charges as should be preferred against him.

The prisoner immediately gave the security required. His sureties were---the Marquess of Chandois, Lord Nugent, Sir Thomas Freemantle, and the Hon. W. Freemantle.

Bengal Hur. Sept. 28.

MEMORANDUM.

An Official Notice having appeared in some of the Calcutta Newspapers announcing that a Meeting of the Officers of the Army at the Presidency would take place at the Town Hall on the 16th Proximo, by permission of the Right Honorable the Commander in Chief, and this Notification having been published through a misconception of the nature of the permission which Lord Combermere had granted, His Excellency has seen fit to withhold his sanction from the proposed Meeting.

By order of His Excellency the Commander in Chief,

W. L. WATSON *Adjt. Gent. of the Army.*
Adjutant General's Office,
Sept. 28th 1826.

Whether this recall of the sanction the Meeting, before publicly and officially announced, be the consequence of a change of opinion, or that the former annunciation was founded on some misapprehension of the views of authority on the subject, we must still consider that the result is to be lamented, as the meeting would most probably have settled the question of the practicability of the proposed Fund for ever, which no newspaper discussion seems likely to do.

We alluded in our last to some letters of the Anti Fundists, republished lately from the *Calcutta Journal* by the *India Gazette* and we have been asked by some of the opposite party, why we did not give them space, that some of the Friends of the Fund might reply to them: the fact is we could not find room for all of them, we have today however given one of the shortest of them, but by no means therefore the least calling for refutation, and we also insert a letter of A LOOKER ON, on the same subject.

For we must confess that the chief we had almost said the *only* question to be considered in determining on the practicability of establishing the proposed fund, is just that started by a Correspondent a few days ago, can the service afford to contribute to it exclusive of their payments to the Widows and Orphans' Fund? if they can, it would seem, that the plan is as practicable as it is undoubtedly desirable; if they cannot, it is in vain talking about it. We should like to see this point settled, and as we think that object would have been most effectually attained at the Meeting, we regret it was not permitted to take place.

The Bengal Chronicle, Sept. 29.

A very unfortunate and afflicting accident occurred on Sunday last. A ferry boat, with nine passengers on board, was overset near Howrah, whether owing to any awkardness of the boatmen, or the rapidity of the current, we have not ascertained. Six of the passengers were drowned, one gentleman swam ashore; an Ayah and a boy of about six or eight years of age, clung to the boat, and were picked up: the boatmen also reached the land by swimming. Three bodies, females, were found yesterday afternoon; one of whom, we are grieved to state, was far advanced in a state of pregnancy.

We forbear mentioning the names of the individuals who met death so unexpectedly, but we understand they were all respectable: and much esteemed by all who knew them.

[*Bengal Hurkaru.—Oct.* 3.

By the report of a Committee of the General Assembly of the Church of Scotland, it appears that in several districts of the Highlands and Islands, there is a deplorable want of education. While flaming patriots are making speeches in favor of the West Indian slaves, or advocating the necessity of educating and christianising the Hindoos, not a word is said nor a measure proposed for ameliorating the condition of the poor Highlanders, many of whom are worse clothed, worse sheltered, worse fed, and sometimes worse treated than the former, and not less ignorant than the latter.

It was but the other day that we observed by a Scottish paper that the Edinburgh Bible Society had voted a donation of £200, for promoting the education and bettering the condition of the Highlanders, and of £500 in aid of the Serampore Missionary Society for translating the Scriptures into the oriental languages. We leave it to our readers to say whether the larger sum *ought* to have been spent on an object that deeply and nearly concerned the happiness and comfort of thousands of our poor fellow countrymen, or upon that which remotely concerns a remote people who have no connexion of sympathy, country, or kindred with the donors.

So long as there are objects of compassion, and religious consideration in England, Ireland and Scotland, unrelieved,—we leave it to those who are so bountiful to transatlantic people to say, whether their conduct is very consistent. We certainly, on this head, think that charity ought to begin at home;—not that we would insinuate aught against that sympathy which includes nations in its circle—we would merely point out misappropriation of funds which occasionally may be seen among the institutions of Great Britain.

At the time when the Edinburgh Bible Society gave only £200 sterling for the education of the Highlanders, and £500 to the Serampore Missionaries, we have it on the authority of the most Reverend Principal BAIRD, that from 40 to 50,000 Highlanders, from early youth to 70 years, of age were unable to read the alphabet, and in a state of deplorable ignorance that precluded their receiving the lights and comforts of religion. Let those who contribute their money to a wholesale system of indifferent translation in India, ponder on this. Let them ask their own hearts the question, whether they are more likely to benefit their country by devoting their mite to the one object, or to the other. We seek not to bring these matters into invidious collision, but we appeal to those who have contributed to that system which professes to enlighten the Hindoos, whether it is decent that they should withold their contribution from that system which offers a speedy and practicable plan for bestowing the blessings of education and religious enlightenment on fifty thousand of their countrymen? Nay, if they cannot afford to contribute to both, is there a question as to which should have the preference?

Too much parise cannot be bestowed upon Principal BAIRD for his unwearied exertions in this good cause. Not contented with all the information that could be procured by correspondence, he travelled himself into the Highlands, to see matters with his own eyes, and to excite by his exhortations and example, those who could afford it, to contribute something for the furtherance of the good work.

Letters have been received in Calcutta from this distinguished and reverend person, calling upon the sons of Albin, who are in this distant land, to give pecuniary aid to an object fraught with so much good to so many thousands of their poor countrymen. We beg most earnestly, with all our humble powers, to second that call, and to state that we shall be most happy to receive for transmission to Principal BAIRD, such sums as any of our readers may be pleased to subscribe to the end proposed.

ASIATIC SELETIONS.

We understand, that the Commerce of the Settlements to the Eastward, or Prince of Wales's Island, Singapore, and Malacca, has been taken into consideration by the Court of Directors, and that orders have been addressed, accordingly, to the several Indian authorities. The principle, that these different ports should be placed on the same footing, in regard to duties, privileges, and immunities, has been fully recognised, and the intention of the instructions communicated, has been, we learn, to assimilate them exactly in these respects. The principal object of these settlements being to promote the trade of Great Britain, and Commerce flourishing most when least burthened, it has been determined to give the fullest efficacy to the facilities which the several establishments offer, for contributing to the commercial prosperity of the empire, by throwing them equally open to mercantile resort. Such import and export duties, therefore, as have been hitherto levied at Prince of Wales Island and Malacca, will be, we understand, forthwith suspended, and they are to be made Free Ports like Singapore.—*Govt. Gaz.*

[*The India Gazette,—October* 5.

MESSRS PALMER & CO. OF HYDERABAD.

At a Special GENERAL MEETING *of the* CREDITORS, *and* REPRESENTATIVES *of Creditors, of the late* FIRM *of* MESSRS WILLIAM PALMER & CO. *held at their Office in Hyderabad, on Monday the* 21*st August* 1826, *pursuant to Public Notice.*

PRESENT.

TRUSTEES.

CAPT. POWELL. | W. PALMER, Esq.

CREDITORS & REPRESENTATIVES OF CREDITORS.

Lieutenant C. Arrow for himself and representative for Mrs. Arrow and Sahib Begum.

Captain Powell for himself and representative for Lieutenant G. Sandys. A. Shedden, Esq. Major Lynch, and E. & B. Drum.

H. Dighton, Esq. Representative for Tontine 20th Regt. M. N. I. Lieutenant Colonel Midford. Major W. Baker. Captain T. Sotheby. Serjt. McCuine, Major Rundall. Lieutenant John Fair. Messrs. Mercer & Co. Messrs. Shotton, Malcolm & Co. Constituents of Messrs. Shotton, Malcolm & Co.

Constituents of Messrs, Forbes & Co.

Constituents of Messrs, Cruttenden & Co.

Constituents of Messrs. Colvin & Co.

LIEUTENANT C. ARROW IN THE CHAIR.

Captain Powell and Mr. Wray give over charge of the affairs under Trust to the only remaining Trustee, Mr. W. Palmer, till others can be elected at a Special General Meeting to be held at the Trust Office at Hyderabad on Friday the 13th October next, on which day a Dividend of 2 per Cent will be probably declared. The following Statement of the accounts since the last Meeting, are submitted by the Trustees for the information of the Creditors.

Statement of Cash Receipts and Disbursements since 8th September 1825 *to* 17*th August* 1826.

Balance in hand per Cash Book 8th Sept 1825.	24769 13 0	
Cash realized since....	2,35,214 0 ¼	2,59,984 6 ¼

DISBURSEMENTS.

Paid Dividends of 8th & 4 per Cent.....	1,69 992 14 ½	
" Mr. Hastings Palmer.	620 0 0	
" Office Establishmeuts including Postages, &c.	12,120 12 ¾	
" Sir W. Rumbold's Dft.....	46,100 0 0	
" Mr. Salder for Sundries Sold....	705 13 ½	2,29,539 8 ¾
Cash in hand Hyderabad Rupees,		30,444 13 ¼
Available at Calcutta.	24,038 0 0	
Do. Madras.....	25,637 0 0	
Do. Hyderabad....	35,000 0 0	84,675 0 0
DEDUCT		1,15,119 13 ¼
Unpaid Dividends of 8 per Cent on Hyderabad Rupee. 161,165	12,893 0 0	
Do. 4 per Cent on..... 767,89	30,7 15 0 0	43,608 0 0
Available Hyderabad Rupees.....		71,511 13 ¼
Due on Sales		30,000 0 0
		101,511 13 ¼

1. The trustees announce with regret that since the last Meeting the sums realized have been comparatively trifling. They are unable to procure payments from their Debtors in the City, for independantly of other obstacles, the promulgation made at Hyderabad by the Resident, that the Contracts of the late House were void on the ground of the presumed illegality of the Interest charged by it, is not yet rescinded nor have they any hope of a change till a counter promulgation of the opinion of the 12 Judges, with a declaration, that under these circumstances their contracts are valid, and in justice ought to be paid, shall be made; The correctness of an announcement from any other quarter, would not be relied on by the Natives, and would be useless. The opinion of the 12 Judges would be ineffectually opposed to the declarations made by the Resident, whether upon his own Authority, or to that of his Government. It is therefore obvious that the same authority which precluded the payments could alone influence the Debtors to discharge their Debts.

II. The letter of the Trustees to Martin requesting to know, whether it was in his power to assist them in the recovery of their Debts from the recent change in the legal opinion regarding the rates of Interest as affecting the transaction of the late House, and his reply. Which states that until furnished with specific instructions, he does not consider himself authorized to afford us any assistance, and that a Copy of our letter shall be transmitted for the consideration of the Right Honourable the Governor General in Council, shall be read to you.

III. A letter from several of the Creditors in England will be read to you, respecting the payment of Three thousand Pounds to Sir Wm. Rumbold, to cover the expences incurred by him in promoting the objects connected with the Affairs under Trust, and for which sum a Draft passed by Sir W. Rumbold, has been already honored; under the peculiar circumstances of the case we deemed it expedient to answer the Draft, and we trust the Creditors will approve of our having done so.

IV. A reply to our petition adverted to in the 5th Paragraph of the Report of our last Meeting has been received. We proceed to read it to you, in compliance with the desire of the Supreme Government.

V. With reference to the Minutes of Government just read, we have merely to say that we deprecate the idea of entering into discussions with the Supreme Government both from deference towards it, and because we feel it would be injudicious. We however owe it to ourselves to say, that we do not admit the correctness of the allegations made of our conduct, nor do we concur generally in the opinions quoted from Sir Charles Metcalfe, nor in the insinuations made by him, either of that part of the conduct of W. Palmer and Co. which has come under our observation, or of their condition prior to the Bankruptcy of their Firm.

VI. To remove however the impression that might arise to our disadvantage from the assertion made by Sir Charles Metcalfe, to his Government, that we had acted under the tuition of Mr. W. Palmer, we think it necessary in our own vindication to state to you that we have never concurred in the opinion of any one, without giving it our full and impartial consideration, and we can only say, that Sir Charles Metcalfe, in having made the assertion has acted upon vague and incorrect information.

The foregoing report was drawn up for submission to the Creditors at the last General Meeting proposed for the 8th May last, which was unavoidably adjourned from Official duties having prevented the attendance of the Trustees, and several of the Creditors residing at Hyderabad. Since then the Resident has sent to us the instructions, which have been received from the Court of Directors, regarding the affairs under Trust. These will be read to you. We regret to say that they are ineffectual to obtain us redress, and are very different from the expectations which we had formed. We had hoped that the unanimous decisions of the 12 Judges would have been considered by the Honourable Court of Directors, as establishing the justice of the Claims of the late House, and entitling us to receive some support of the Supreme Government in the recovery of those particular debts, the payment of which had been distinctly prevented by the language, adopted apparently for that express purpose, with which the promulgation of an erroneous comprehension of the Law made at Hyderabad, had been accompanied.

(Signed) CHARLES ARROW
Chairman.

N. B. Mr. Dighton takes this opportunity to acquaint the constituents of the late Firm of William Palmer and Co. whom he has represented, that having retired from Agency business, he has made over the charge of the affairs of such constituents to Mr. William Palmer, to whom Mr. Dighton requests all future references may be made. *Ben. Chro. Oct.* 6.

MADRAS.

The Ship *Hope* arrived on Sunday from England, and brings news to the 8th of June, up to which date we have received Papers. We have only had time to take a hasty glance over them, and are enabled to give but few additional particulars to the intelligence brought to Bombay by the *Hannah*—our Papers of Friday and Saturday having contained the chief particulars of the intelligence for the first week in June.

Passengers per Hope—Mrs. Owen, Mrs. Nixon, Mrs. Dawker, Misses Titwood, Scott, Owen, Ewart, Collie, and Gosslie: Captains Dawker and Barrow, N. I. Lieutenant Ross, Mr. Leyier, Cavalry Cadet, Mr. Owen, Supt. Surgeon, Mr. Smyth;—Mr. Blackwood, for Bengal. [*Madras Courier,—Oct.* 9.

BOMBAY.—PRINTED FOR THE *PROPRIETORS*, BY J. F. DE JESUS, IN MILITARY SQUARE No. 3.

WHERE ADVERTISEMENTS, ESSAYS, POETICAL PIECES, ARTICLES OF INTELLIGENCE, &c. &c. WILL BE THANKFULLY RECEIVED.

Gentlemen about to change their stations are requested to give notice to the PRINTER who will pay due attention to their orders.

SUPPLEMENT TO THE BOMBAY GAZETTE.

WEDNESDAY, 25TH OCTOBER 1826.

COURT MARTIAL.

Continued from our last.

Q. Did the observations you have just deposed to produce any alteration in your previous sentiments respecting the Prisoner, if so state the extent and nature of that alteration.

A. Yes, so far as strenghten the former reports that I heard so as to induce me to communicate this circumstances to my Commanding Officer which I had not done before.

Examined by the Prisoner.

Q. Did Captain Stanley give any reason for his saying that he supposed the man went to my quarters by appointment.

A. No.

Examined by the Court.

Q. Did you make the Prisoner acquainted with the reports in circulation to his prejudice.

A. Never, I was not on terms of intimacy with him.

Captain Girdlestone withdraws.

Captain Graham again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you recollect the circumstance of a man of the 20th Regiment, found concealed in the Prinsoner's quarters on or about the night of the 5th May last.

A. Yes, I do.

Q. Do you know of any reports deeply affecting the Prisoner's character having grown out of that occurrence.

A. I heard such reports in circulation.

Q. State as precisely as you can the substance or general bearing of the reports.

A. I heard that a man of the 20th Regiment had been found in the Prisoner's bed, and that he had been brought to a Court Martial, at which the Prisoner had refused to attend, I heard it commonly talked of as an extraordinary circumstance, with insinuations that the man must have been therefore for an unnatural purpose, I heard also that Officers of other Regiments in the Garrison had talked of it in that light.

Cross-Examined by the Prisoner.

Q. In what terms were the insinuations to which you have above deposed expressed.

A. I do not recollect any exact expressions, but I heard it openly talked of.

Q. Did you ever hear any person say in express terms that the man of the 20th Regihad gone to my quarters for an unnatural purpose.

A. I have heard several Officers expressly say they thought so.

Q. Name these Officers or any one of them.

A. I have heard Captain Lawson, Captain Head, and some others say so, and I have said so myself.

Q. Have you heard it said that this man was apprehended by some men, that I went myself and brought from a neighbouring ground.

A. I have heard so.

Q. Did you inform me of the reports to which you have above deposed.

A. I did not, but having consulted with Captain Lawson and two or three other Captains, I mentioned them to Colonel Williams.

Captain Graham withdraws.

Captain Head again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you remember the circumstance of a man of the 20th Regiment having been found concealed in the Prinsoner's quarters on or about the night of the 5th of May last.

A. I remember hearing of the circumstance.

Q. Do you know of any reports deeply affecting the Prisoner's character having grown out of that occurrence.

A. I was confined at the time to my house by illness, I heard from several Officers of the Regiment, that the subject became a matter of animadversion in and out of the Regiment.

Q. State as precisely as you can the substance or general bearing of these reports.

A. The substance of the reports was that a man of another Regiment had been found in the Prisoner's Bungalow, that a pair of shoes had also been found there, that another man had also been said to have been there—and that the Prisoner had not taken any steps to clear up the extraordinary circumstance. The tendency of these reports caused in my mind a connexion with former reports, which took from me all confidence in the Prisoner.

Cross Examined by the Prisoner.

Q. Did you ever say that you thought that this man had gone to my quarters for an unnatural purpose.

A. I never made use of such an expression that I have the least recollection of.

Examined by the Court.

Q. Did you ever make the Prisoner acquainted with the reports in circulation to his prejudice.

A. No, I did not.

Captain Head withdraws.

The Prosecutor here closes the Prosecution on the 3d Charge.

4th Charge.—The Prosecutor now proceeds to adduce in support of the 4th Charge.

Corporal Foy, H. M. 2d or Queens Royal Regiment, called into Court and duly sworn.

Q. Have you lived with Lieut. McKenzie as a servant, and how long did you continue in his service.

A. Yes, and I was in his service three days when I was discharged by the Colonel.

Corporal Foy withdraws.

The Court is now adjourned until tomorrow forenoon at 11 o'clock.

SEVENTEENTH DAY.

SATURDAY 22d JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as yesterday.

Read over the Proceedings of yesterday.

Prisoner.—In order to save the time of the Court, I beg to admit that since I embarked with the Regiment for this country, I have had in my employment as my servants Private Moses, Lintott, Private (now Corporal) Thomas Foy, and Private James Turner.

The Prosecutor Sworn.—The Prosecutor is now duly sworn and deposes as follows—I never did give my permission to the Prisoner to employ Foy as his servant, nor do I ever remember to have given like permission for the employment of Turner, more particularly as he belonged to the Light Company of the Regiment and the Prisoner belonged to another.

2d By the Judge Advocate.—Besides the men in the above admission of the Prisoner does the 4th Charge apply to any other men employed as servants by the Prisoner without your leave.

A. I conceive so certainly, and I beg to refer to the evidence of Private Henry Smith, who deposes, to having given the late Cooke, then a Serjeant a kettle of boiling water to take into Mr. McKenzie's breakfast, and to the evidence, also, of Lieutenant Raitt who deposes as to the fact of Cooke, then a private waiting upon a party who were at tiffin at Mr. McKenzies.

Cross-questioned by the Prisoner.

Q. Was I not reprimanded by you in consequence of having taken Foy as a servant.

A. I cannot conceive the manner in which I addressed the Prisoner on that occasion as a reprimand, I admit having taxed the Prisoner with taking the man without leave, and his disobedience of orders on numerous instances, induced me to take the steps I did with respect to Foy.

Q. Had the whole of the men mentioned in this list, your permission to be employed as servant.

Grenadiers.—Col. William's		Wakeland.
1st Company.	Lieut. Robertson's	Neil.
	—"— Raitt's	Gordon.
	—"— King's	Wright,
2d Company.	Lieut. Littlejohn	Davidson.
	—"— Keith's & Hunt's	Parker, sent to duty one month ago.
3d Company	Lieut. Cavendish's	Tyrell,
	Capt. Head's	Murphy.
4th Company.	Col. Williams's	Pierce.
		Plunket.
		Reilly.
5th Company.—Lieut. Carrey's		Reilly.
6th Company		Baird.
		Campbell.
7th Company.		Cook.
		Campbell.
8th Company.	Major Jonston's	Ouctonpitt.
	Lieut. Harrey's	James.
Light Company.—Lieut. Meldrum		Wynue.

A. I really cannot charge my memory with so long a list as this. I see the names of several married men, almost the whole of them in fact, and with respect to them, I beg to state that I issued a memorandum to the Officer's of the Regiment in consequence of the limitted accommodation for married Soldiers, both here and at Colabah, recommending Officer's to take into their out-offices the best disposed married men of their respective companies, and I recognize amongst this number ten who have been so taken.

Q. Did you not issue, or cause to be issued, a verbal order on or about the 27th February last, when the left wing of the 20th Regiment returned to Poonah, permitting all servants to sleep out of Barracks.

A. I do not remember having done so, some Officers did apply, I think about that time, for special permission for their servants to sleep in their out-houses, as a protection to them, and when a good reason was given, I never recollect having refused it.

Examined by the Court.

Q. Was Corporal Foy when a Private employed as a servant by the Prisoner before or after Private James Turner of the Light Company.

A. I really cannot charge my memory with that point, having the whole charge of the Regiment on my shoulder's, one Major being sick, and the other gone home, my time is taken up with more important matter's.

Q. Are you aware that the Prisoner took another soldier, without leave after your speaking to him as you have stated respecting Foy.

A. With respect to Turner, I have been informed of it both by the Captain of his Company and by the Adjutant of the Regiment.

Q. By the Prisoner.—Did you not at the time you spoke to me about Foy, express it as your cause of displeasure my having taken him as he was a front rank man, and not on any other account.

A. I think, I did say that he was a front rank man, but I had other and much stronger reasons for objecting to Foy as your servant. He was not only to the best of my knowledge, the right hand man of the company, but also a young man of great promise.

Captain Lawson again called into Court, and examined on his former oath.

Q. Do. you know of the Prisoner having employed Private Foy of your Company as a servant.

A. Yes.

Q. Did the Prisoner proviously to taking Private Foy, as a servant obtain your permission so to do.

A. Not Foy, as he was the right hand man of the Company, and a recently reduced Serjeant. But he asked for a servant and I never knew of his selection until I was called upon to know whether I had given my sanction for the employment of Foy, which of course I answered in the negative.

Examined by the Prisoner.

Q. Did you grant me permission to take a servant.

A. The usual conditional permission of course I am not allowed to permit any man to go from the Company without the sanction of the Commanding Officer, and as the Prisoner did not name any man I thought he had not availed himself of the permission.

Q. Did you express that condition to me.

A. I did.

Captain Lawson withdraws.

The Prisoner now begs leave to admit that Private (now Corporal) Thomas Foy, and Private James Turner, slept in his Bungalow during the time that they were his servants.

Lieut. and Adjutant Littlejohn again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. Do you know of any Regimental order prohibiting Soldier's from sleeping out of their Barracks, if so, produce it or an extract of it.

A. Yes, this is a true extract from the Regimental order Book.

Bombay, 30th June 1825.

EXTRACT FROM REGIMENTAL ORDERS.

All servants of Officers not married, to answer their names at Tattoo, after which they are not to quit their Barracks until the following morning.

JAMES LITTLEJOHN *Lieut. and Adjutant Queen's Royals.*

Cross Examined by the Prisoner.

Q. On the occasion of the left wing of the 20th Regiment returning to Poonah, did you not give a verbal order to the Serjeant, that servants might sleep out of their Barracks.

A. I did not, I had no orders to that effect from the Commanding Officer.

Q. Are you aware that other Officers are and have been in the habit of letting their servants, being unmarried men, sleep in their quarters since the order of the 30th June 1825.

A. I am not aware of any at present, three instances have come to my knowledge of Officers allowing their servants unmarried men to sleep at their Bungalow, which I reported to the Commanding Officer.

Lieut. Littlejohn withdraws.

Captain Brough again called into Court and Examined on his former oath.

Examined by the Prosecutor.

Q. Did you ever give the Prisoner permission to take Private Turner as a servant.

A. No, I never did. But on an application from him in April last, to the best of my recollection I told him that if he obtained the Commanding Officer's permission, I as Captain of the Company, had no objections and could not interfere to prevent it.

Cross Examined by the Prisoner.

Q. At the time that I made this application were not both Lieutenant Colonel Williams, and Lieut. Littlejohn absent, and were you not in temporary Command of the Regiment.

A. I do not recollect. At all events if that was the case I considered myself merely as Senior Officer doing duty, and told you that I could not give you permission without the Commanding Officer's sanction.

Q. Do you not know that Lieutenant Meldrum in your absence gave James Turner permission to be my servant.

A. Soon after my return from Bombay, on the 11th or 12th of March last, Lieutenant Meldrum to the best of my recollection, asked me whether I had received an application at Bombay from Mr. McKenzie to have Turner as a servant, my reply was, that I had not. He then told me that Mr. McKenzie had promised to make such an application, and that in consequence he was induced to allow Turner to remain with him until my permission was actually received.

Q. Did you not after your return from Bombay in the absence of Lieut. Colonel Williams, and the Adjutant, receive a note from me stating that Turner was my servant, and asking if you had any objection.

A. I received a note from you, but whether in the absence of these Officers or not, I do not recollect. The note now given in, is the one in question, and I think I received it in April, but whether previous to the 12th, I cannot say.

MY DEAR BROUGH,

During the time you were at Bombay, Meldrum (till your plasure should be known) gave Turner, of your Company permission to be my servant. It was my intention on your return, to have requested your sanction, but you were occupied with friends, and preparing for an excursion, which made me defer writing to you on the subject, the matter escaped my mamory till Meldrum reminded me of it this day.

Allow me to apologize for my seeming want of respect, and to beg to know, if you have any objection to his remaining.

I am Dear Brough,
Yours truly
G. McKENZIE.

Monday,

Q. What was the answer which you give to this note.

A. The answer that I gave to this note, was that I have above stated to the Court, I mentioned personally to Mr. McKenzie two or three days after receiving it, to the best of my recollection. I do not recollect having replied to it in writing.

Examined by the Court.

Q. You state in your evidence that Lieut. Meldrum acquainted you on your return from Bombay, that during your absence he had given leave to Turner, to go to Lieut. McKenzie as a servant, did you order the man to return to his duty on hearing this from Lieut. Meldrum.

A. No, I did not order him to his duty, as he was never absent from Parade whilst I was there. I told Lieut. Meldrum, and also Lieut. Knox, to the best of my recollection that I did not recognize him as a servant, but that from motives of delicacy to Lieut. McKenzie with whom I had never been on intimate terms, I did not wish to act harshly towards him. I was frequently asked whether any application had been made to me for this man.

Q. Besides attending Parades, did Turner take his other duties in the Regiment.

A. I do not know.

Captain Brough withdraws.

Private James Turner, H. M. 2d or Queen's Royal Regiment, called into Court and duly Sworn.

Examined by the Prosecutor.

Q. Do you remember when you went to Lieut. McKenzie as his servant and when you left him, if so state how long it was altogether.

A. I went to Lieut. McKenzie on the 25th January last, and I left him on the 5th May.

Cross Examined by the Prisoner.

Q. In what manner did you leave me on the 5th May.

A. I was confined by Mr. Littlejohn the Adjutant about five o'clock in the evening.

Q. For what were you confined.

A. I was out riding.

Examined by the Court.

Q. Was Lieut. Colonel Williams present with the Regiment when you first went as servant to Lieut. McKenzie.

A. To the best of my knowledge I believe he was.

Q. Besides attending Parades did you perform any other Regimental duty during the time you were acting as Lieut. McKenzie's servant.

A. No.

The Prosecutor here closes the Prosecution on the 4th Charge.

5th Charge.—The Prosecutor now proceeds to adduce the following evidence in support of the 5th Charge.

Color Serjeant White again called into Court and Examined on his former oath.

Examined by the Prosecutor.

Q. Do you remember to have gone to Lieut. McKenzie's quarters on any occasion, during the months of March and April last, and to have partaken of some refreshment there in Company with other Non-commissioned Officers.

A. I do.

Q. How often have you been there for that purpose, and name the dates, if you can recollect them.

A. Twice, with other Non-commissioned Officers, and once by my self, but I do not recollect the dates.

Q. Name the occasion you say you were there by yourself, whom you saw there, and what took place.

A. On the night that the first play was acted here, I was down there. I saw Turner Mr. McKenzies servant, and Mr. McKenzie. I went down supposing Mr. McKenzie was out to speak to Turner, and to get a glass of grog, as I felt myself sick, and I saw Turner coming outside, and I said, Turner, is Mr. McKenzie come from the play-house yet, and he said Mr. McKenzie was inside. I told him that I had come down for the purpose of getting a glass of grog, and I was going away and as Turner was going inside, Mr. McKenzie asked him, who that was, Turner told him it was Serjeant White, and he desired Turner to call me in, when I came inside Mr. McKenzie asked me if I would have any thing to drink, I thankfully

accepted it, and as I was pouring out the glass he desired me to make myself a good glass of grog, at this time it was between 11 and 12 o'clock at night, and Mr. McKenzie was in a situation as if he was going to bed, he had nothing on, but a shirt, and I belive pair of slippers sitting on the side of his cot, I thanked him and wished him good night, and he wished me good night, I then went home.

Cross-Examined by the Prisoner.

Q. With the exception of the time above deposed to were you ever at my quarter's after Tatoo beating.

A. I do not think I was, but I am not positive.

Q. Had you permission to be out of Barracks after Tattoo on that Evening, for the purpose of going to the play.

A. I had from the Serjeant Major.

Q. When I asked you on that evening what you had come for, what reply did you make.

A. I do not recollect your asking that question.

Q. Did you not say you came to warn Turner for Parade.

A. I remember telling Turner outside, that he was for Parade next morning, as an excuse for getting a glass of grog, and I might have told Mr. McKenzie so, but I do not recollect.

Examined by the Court.

Q. You sate in your evidence that you have been with other Non-commissioned Officers in Lieut. McKenzies quarters, was it after Tattoo beating that you went there with the Non-commissioned Officers.

A. No, it was not.

Colar Serjeant White withdraws.

The Court is now adjourned until Monday next, at 11 o'clock of the Forenoon.

EIGHTEENTH DAY.

MONDAY 24TH JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present the same Members as Saturday last.

Read over the Proceedings of Saturday last.

Serjeant Turner, H. M. 20th or Queen's Royal Regiment, called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember the night of the 14th March last, when the play or farce of Bombastes was performed.

A. Yes.

Q. Did you on that night go to Lieutenant McKenzie's quarters, and partake of any refreshment there.

A. Yes.

Q. What did such refreshment consist of.

A. A glass of brandy and water, and, I believe some sandwiches.

Q. Had you no more than one glass of brandy and water.

A. No, not that night.

Q. Did you go there of your own accord on that occasion, or were you invited to go by any person, and by whom.

A. I was invited by Lieut. McKenzie's servant, James Turner, a brother of mine.

Q. Do you remember to have met any other Non-commissioned Officers there on that occasion, if so, name them.

A. Yes, Serjeant McDonald was there.

Q. When you received the invitation to go to Lieut. McKenzie's quarters on the night on question, did you express any fears of the consequences that might attend your going.

A. No, not on that night.

Q. Did you on any night express your fears about going there, and on what night.

A. Yes, but I do not recollect on what night it was, the first time that I was asked by my brother to go there.

Q. State to the best of your recollection what was said to you on that occasion to remove your fears.

A My brother asked me to go down to Lieut. McKenzie's quarters, to have a glass of grog. I told him I did not like to go on account that his master would be angry with him, he told me I need not fear going as he had Lieut. McKenzies leave to bring his brother or any other friend he wished at any time.

Q. At what hour on the night of the 14th March last, did you go to Lieut. McKenzie's quarters, and at what hour did the party break up to return to their barracks.

A. After the play, about 11 o'clock, and the party remained there about an hour.

Q. Do you remember to have gone to Lieut. McKenzie's quarters on the 17th March last, and eating and drinking there, and state what this eating and drinking consisted of.

A. Yes, my brother came up to me in the afternoon, and asked me if I would go down that evening, and have a glass of grog with him. I was orderly Serjeant at the Canteen that day, and I told him I could not go until after I was relieved. I was relieved at six o'clock, but did not go till after Tattoo beating. I had a glass of brandy and water and some sandwiches and gingerbread-nuts that night.

Q. How long after Tattoo was it when you went on this occasion, and when did you return to your Barracks.

A. About half past nine, when I went in, I found my brother alone, and he said why did you not come before, I asked you before Tattoo beating, so I returned home directly and on my way back I met Serjeant Curneen and Serjeant Graham, and I turned back with them, and we returned to our Barracks about 11 o'clock when the *Poonah Gun Fired.*

Q. When you met Serjeants Curneen and Graham, did they say where they were going.

A. Yes, they said they were going down to my brother's at Lieut. McKenzies quarter's.

Q. When you returned to Lieut. McKenzie's quarters, who composed the party altogether, name all those you recollect.

A. There was James Turner, Serjeants Graham, Curneen, and myself.

Q. When in Lieut. McKenzie's Bungalow, did you inter freely into conversation, the same as if you were in your own Canteen or Barracks Room.

A. Yes.

Cross Examined by the Prisoner.

Q. Did your brother ever tell you that he had my leave to ask you after Tattoo beating.

A. He never mentioned Tattoo beating, he said he had leave to ask me at any time.

Q. Was I ever present at any time that you were taking refreshment with your brother at my quarters.

A. Never, nor in the house that I knew of.

Serjeant Turner withdraws.

Private James Turner again called into Court and examined on his former oath.

Examined by the Prosecutor.

Q. When you lived as servant with Lieut. McKenzie, do you know of any of Non-commissioned Officers of the Regiment coming to his quarters of an evening, and eating and drinking there,

A. Yes.

Q. How often to your knowledge have Non-commissioned Officers met at Lieut. McKenzie's quarters after Tattoo, and state if you can the dates when they went there.

A. Twice, on the 14th and 17th March last.

Q. By whose desire did they come to Lieut. McKenzie's quarters for the purpose you have mentioned.

A. I asked them, Mr. McKenzie told me to ask them on account of my not being allowed to be with my brother, on account of his being a Non-commissioned Officer, and my being a Private, we were not allowed to associate together.

Q. Did you ever invite any other Non-commissioned Officer to go to Lieut. McKenzie's quarters, besides your brother.

A. Yes, I have asked Serjeant McDonald, Serjeant White, Serjeant Curneen and Serjeant Graham.

Q. By whose desire or authority did you invite them.

A. Lieut. McKenzie gave me leave to ask my brother or any other Serjeant I wished.

Q. Name the Non-commissioned Officers who were present at Lieut. McKenzie's quarters on the night of the 14th March.

A. Serjeant Turner and Serjeant McDonald, and I think to the best of my knowledge, Serjeant White, but I am not positive.

Q. Name those who were there on the 17th March.

A. Serjeant Turner, Serjeant Curneen and Serjeant Graham.

Q. What kind of refreshment was provided on either or both of these occasions, and where was it procured.

A. On the 14th, some sandwiches and brandy and water, and on the 17th, sandwiches, gingerbread-nuts, and brandy and water, which were brought from the Mess-house.

Q. By whose order or authority were those things got.

A. Mr. McKenzie's.

Q. Was it an order in writing or did he direct you to get them by word of mouth.

A. In writing.

Q. Did Lieut. McKenzie on the morning after one of these occasions ask you any questions about the intertainment of the preceding night.

A. Yes, he asked me if I had given them enough to eat and drink, and I told him I had.

Q. When was this.

A. On the 18th March.

Q. Did Lieut. McKenzie make any observation on the morning of the 15th March.

A. No, to the best of my knowledge he did not.

Q. Did Lieut. McKenzie mention the name of Serjeant Graham, on either of these occasion, if so, what did he say.

A. Yes, he did on the 18th March, I told him who had been down there, and he said he did not know Serjeant Graham, and asked me if he was a young hand in the Regiment, and I told him, he was.

Q. Did not Lieut. McKenzie himself propose to you, to invite the Serjeant's to his quarters on these occasions.

A. Yes, he did.

Q. State the hour, more or less, the Serjeants came on the 14th March, and the hour they broke up?

A. It was after the play was over, and they went away in about an hour or an hour and a quarter.

Q. When did they come and go away on the 17th March.

A. It was about half past nine when they came, and they left me before the Poonah Gun fired.

Q. When you first asked your brother to go to Lieut. McKenzie's quarters, did he make any objection to go.

A. Yes, he did.

Q. What did you say to him on that occasion.

A. I told him he need not be afraid to come, as I had got Mr. McKenzie's leave.

Q. On the night of the play, did Lieut. McKenzie ask you if the Serjeants were come or something to that effect.

A. Yes, to the best of my knowledge I think he did.

Cross-examined by the Prisoner.

Q. Do you mean that I ordered you to ask the Serjeants to come to my quarters on the 14th and 17th March, or merely gave you leave to ask them as I was going out to a party.

A. You gave me leave to ask them.

Q. Was I in or about my Bungalow where the Serjeants were there on the 14th and 17th March.

A. On the 14th March, I saw Mr. McKenzie on the outside of his Bungalow, in Mr. Kennedy's compound, and on the 17th, I did not see him at all, either in or about the Bungalow.

Q. Did I know the Serjeants were there, after Tattoo.

A. Not at the time they were there he did not but afterwards Lieut. McKenzie did.

Q. After you had told me that the Serjeants had been at my quarters after Tattoo, were they again there after Tattoo.

A. No.

Q. Were the sandwiches and other things procured from the Mess-house expressly for the Serjeants or for myself.

A. For Lieut. McKenzie.

Q. Was I not in the habit of having either sandwiches, or other things every evening.

A. Yes, always.

Q. On the night of the play, was it not between 1 and 2 o'clock when I returned home.

A. Yes it was.

Q. How could I at that hour ask if the Serjeants were come.

A. Not at that hour, Lieut. McKenzie did not.

Re-examined by the Prosecutor.

Q. Did Lieut. McKenzie ever say to you that he would be out of the way when the Serjeants came to his Bungalow.

A. He said the night he was out, I might ask them down there.

Q. On the evening of the play, what hour might it be, when Lieut. McKenzie asked you if the Serjeants were come.

A. It was when I saw him in Mr. Kennedy's compound after the play, about half past 11 o'clock.

Examined by the Court.

Q. Did Lieut. McKenzie name to you the persons you were to invite either on the 14th or 17th March.

A. No, excepting my brother.

Q. Did Mr. McKenzie give you leave to ask the Serjeants, on the 14th or 17th March, without your first applying to him for permission..

A. Yes.

Private James Turner withdraws.

The Court is now adjourned until to-morrow forenoon at 11 o'clock.

NINETEENTH DAY.

TUESDAY, 25TH JULY 1826.

At a general Court Martial then holden at Poonah pursuant to adjournment.

Present, the same Members as yesterday.

Read over the Proceedings of yesterday.

Serjeant McDonald 2d or Queen's Royal Regiment, called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember the night of the 14th March last, when the play or farce of Bombastes was performed.

A. Yes.

Q. Did you on that night go to Lieut. McKenzie's quarters and partake of any refreshment there.

A. I did.

Q. Did you go there of your own accord, or were you invited to go, and by whom were you invited.

A. I was invited to go by James Turner, Lieut. McKenzie's servant.

Q. At what hour did you go to Lieut. McKenzie's quarters on that night, and at what hour did you leave them to return to your Barracks.

A. I went there as soon as the play was over, and stopped there nearly an hour.

Q. Do you remember to have met any other Non-commissioned Officers there on that occasion, if so, name them.

A. Yes, I met Serjeant Turner there.

Q. What did such refreshment consist of.

A. A glass of brandy and water and sandwiches.

Q. How often may you have gone to Lieut. McKenzie's quarters for the purpose of eating or drinking before or after the time you have just mentioned.

A. I was three or four times before Tattoo besides.

Q. Besides the night of the 14th March, have you been on any other occasion after Tattoo, at Mr. McKenzie's quarters.

A. No.

Cross Examined by the Prisoner.

Q. When taking refreshment at my quarters with my servant, did you ever see me in or about my bungalow.

A. No, one night that I was coming out, I saw four or five Officers sitting at table, but whether Lieut. McKenzie was one of them, I was not near enough to know.

Q. Was this before or after Tattoo.

A. Before Tattoo.

Examined by the Court.

Q. Had you and Serjeant Turner leave to be out of Barracks after Tattoo, on the night of the 14th March.

A. We had leave from Tattoo, from the Serjeant Major.

Serjeant McDonald withdraws.

Private, late Serjeant Graham, of the 2d or Queen's Royal Regiment, called into Court and duly sworn.

Examined by the Prosecutor.

Q. Do you remember to have gone to Lieut. McKenzie's quarters, on the night of the 17th March, and eating and drinking there, and state what that eating and drinking consisted of.

A. Yes, and I had sandwiches and brandy and water.

Q. Had you any gingerbread-nuts.

A. No, I do not recollect that I had.

Q. At what hour did you go to Lieutenant McKenzie's quarters on the 17th March, whom did you meet there on that occasion, and when did your party separate to return to your Barracks.

A. About half past nine o'clock, I met Serjeant Turner and Serjeant Curneen, there we remained about an hour, and returned to our Barracks about half past ten.

Q. Did you go there of your own accord, or were you invited to go, and by whom were you invited.

A. I was invited by James Turner.

Cross Examined by the Prisoner.

Q. Did you see me in or about my Bungalow on the night of the 17th March.

A. No, I did not.

Private Graham withdraws.

The Prosecutor now lays before the Court the Mess Day-Book, from which the following two entries are extracted and admitted by the Prisoner Lieutenant McKenzie'.

March 14th 2 dishes of Saudwiches.
" 17th 2 Ditto Ditto.
2 Dozen Gingerbread-nute.
8 Cheese-cakes.

The Prosecutor here states that he has no further evidence to adduce in support of the Prosecution.

Cross Examination of the Prosecutor.—The Prosecutor is now Cross Examined by the Prisoner.

Q. Did you ever witness any thing in my moral conduct derogatory to the charater of an Officer and a Gentleman.

A. Certainly not.

Q. When did you first hear any reports to my prejudice.

A. I never heard, to the best of my recollection any reports to the Prisoners prejudice, before my arrival here, from Singhur on the 10th of May last.

Q. By whom were these reports communicated to you.

A. On my arrival from Singhur, on the 10th of May last, I heard of the reports first at the Breakfast-table, from Captains Graham, and Head, and these reports were afterwards corroborated both by Captains Lawson, and Brough, and Lieut. Littlejohn, the Adjutant. The affairs of the ship, and Colabah, and the falsehood stated in the 1st Charge were communicated to me about the same time.

Q. In what terms were these Reports communicated to you.

A. As far as I can recollect, I will detail them when seated at the breakfast-table on the 10th of May, Captains Graham, and Head in the most delicate manner they could mentioned the circumstance of a man of the 20th Regt. having been taken out of Mr. Mckenzie's bed a few nights previous, & that Mr. Mckenzie had neglected to prosecute him as he ought to have done. The subject had been much talked about both within, and without the Regt., and that Capt. Lawson the Senior Captain then present with the Regt. had stated that were he in command of the Regiment, he would think it his duty to lay the whole business before me, as the Commanding Officer of the Regt. In the course of that day the 10th, both Captains Lawson, and Brough did communicate to me the whole of the affair, and it was in the course of that day, or the next, that I was made acquainted by different Officers of the Regiment with the affairs of the Ship, and Colabah, the reports were of a nature reflecting highly on the character of the Prisoner, both as an officer, and a gentleman, and gave me high cause for suspicion—In fact, I had no alternative for the honor of the Regiment, but to bring the thing to as speedy a conclusion as I could.

Q. Did the officers of the Regiment state to you, that a criminal intercourse had taken place between me, and the late private Cooke.

A. I do not know that the word criminal was mentioned, but it was very strongly suspected by them, and the adjutant was I think the first person that I heard the occurrence on board ship from which the first causes of suspicion arose.

Q. Did you credit these reports.

A. From what was stated to me, I also had strong cause for suspicion.

Q. Did you take any steps to ascertain the truth or falsity of these reports.

A. Yes, I Did, I called upon the Prisoner through the Adjutant on the morning of the 10th of May, for an explanation of the circumstance of a man of the 20th Regt. having been found in his quarters on the night of the 5, this explanation was given by the Prisoner, but it appearing to me so unsatisfactory, I requested a personal interview with the Prisoner. He came to the House, I was then staying at on the 11th, I received him as I had always been accustomed to receive every officer in the Regt. I shook him by the hand, and asked him to take a chair.—He then recapitulated the circumstances of the man, of the 20th Regt. having been found in his house and in his bed, but the whole of his manner was so lukewarm, and indifferent that I could not but feel great surprise, and as far as my memory go[illegible] I will repeat the words which first induced me to take up the whole affair,—I put this question to the Prisoner, was this man of the 20th pulled out of your bed, his reply "was yes," and I then said did you not think it necessary to prosecute the man, the reply then was that he was sick—I rose from my chair, and said again, that if I were to die on the road to the Court Martial on the man, I would never leave him till he got the severe punishment he deserved, otherwise we were not safe in sleeping in camp, I proposed sending for the Assistant Surgeon of the Regt. I did so, and he came to the room

where I and the Prisoner then were, I had previous to the [illegible]geon's arrival, stated to the Prisoner, that [illegible] Medical man Asst. Surgeon Campbell of the Regt. was opinion that the Prisoner was not able to go up, and attend the Court Martial of this man, of the 20th, I should be satisfied, and would explain the cause of the Prisoner's none attendance to the Officers of the Regiment—I asked Asst. Surgeon Campbell in presence of the Prisoner, the question, and the answer was, what I had almost anticipated that the Prisoner was perfectly able to have gone up to prosecute the man, that he might have done so by means of his Palankeen or Buggy, and if urgent necessity required it he might have walked there or something to that effect.

Q. Beside what you have above deposed to, did you take any other steps to ascertain the truth or falsity of the reports alluded to in the 3d Charge.

A. The Reports came to me from so many quarters, that I could not but give evidence to them, and my suspicions were certainly heightened by the manner of the Prisoner, both in his letter of the 10th, and his conversation of the 11th.—On the morning of the 11th, I called on Colonel Fitz-Gerald, and requested that he would favor me with a perusal of the trial of Private McHugh of the 20th Regt. He did so, and I saw then the unfortunate omission of the Prisoner in not prosecuting so flagrant a breach of discipline, during the whole of this day the 11th, I was very busily employed preparing for the half yearly Inspection of the Regt. by Sir Lionel Smith, the following morning, and it was either on the afternoon of that day, or on the 12th early in the morning, that I received a letter from the Prisoner, requesting that a meeting of his brother officer's might be convened, I had been absent from sick certificate, and I acquiesed, thinking it the most desirable way to get to the truth. The meeting took place, and the unanimous feeling of the body of officers was that under the circumstances of the case they could not feel that ease, and confidence with respect to Mr. Mackenzie, that ought to exist among all brother officers.

Q. After the perusal of McHugh's trial, did you enquire who had framed the crime on which he was tried.

A. I do not think I did, I drew my conclusion from the original Proceedings of the Court Martial.

Q. Did you know on the 11th May, that McHugh had been apprehended by a Guard called in by myself.

A. Yes, I had heard it.

Q. Did you ever call upon me for an explanation of the reports alluded to in the 1st Charge, or give me an opportunity of explaining them.

A. No, I did not. The first Charge was framed after the Prisoner's appeal for a solemn, and public investigation into his character, and the reports having come to my knowledge, I thought it desirable they should be cleared up as well as the reports contained in the 3d Charge.

Q. Did you subsequently to my waiting upon you on the 11th May, receive a letter from me requesting an enquiry into the reports alluded to in your conversation.

A. Yes, I did.

Q. Can you produce the letter.

A. I can, the one I now give in is the one, and I received it either on the night of the 11th or early the next morning, I am not positive which.

Camp near Poonah,
11th May 1826.

Sir,

When I waited on you this day, by your own desire, you informed me there were extraordinary reports in circulation relative to me.

As I am quite conscious of never having committed any act, which can in the slightest degree reflect dishonor on me, and as I am perfectly certain, my conduct has ever been that of a Gentleman, I feel it my duty to request you will institute an enquiry, so as to enable me to prove to the world, the malevolence of the individual, or individuals, who have attempted assasin like to cast a stain on my character.

I am Sir,
To
Lieut. Col. Williams
Queen's Royals.
Your obedt. Servant.
G. McKENZIE.

Q. Had I not a second interview with you relative to the reports in circulation to my prejudice, and if so, state on what day, and what I told me on that occasion.

A. Yes, in the personal interview with Mr. [illegible] on the 11th, I saw the case in so light that to avoid a public expose, [illegible]ces which would certainly tend to [illegible]t on the Regt. that I urged Mr. [illegible]rture either by exhange or on [illegible] me on the 11th, undecided as to [illegible]l accept it or not, and I named [illegible]or his answer—I waited with [illegible]r it, and at 2 o'clock in the [illegible]h, was the time that I should [illegible] waited until past three [illegible]t Surgeon Campbell coming [illegible] pressed him to go down to [illegible]s and urge his departure. I [illegible] Assistant Surgeon Campbell, [illegible]ver much I might have sanction- [illegible]change into another Regiment, the day previous it was then utterly out of my power to give the credentials required, whether Assistant Surgeon Campbell had seen the Prisoner or not, I do not know, but shortly afterwards—I think about half past three, Prisoner came up to my quarters a second time, and I stated to him that I had ascertained that the reports had gone so far both in and out of the Regiment, that I could not give him the character that was required for an exchange into another Regiment. I think the proposition came from the Prisoner for a consultation of the Officers, and as I have stated before, I thought it the most likely method of ascertaining whether the reports had become as general as it had been mentioned to me, no objection was started by the Prisoner, and as it was then dinner time, 4 o'clock, the meeting of Officers took place on the following afternoon. I never remember to have witnessed a feeling so general as took place on that occasion, for I believe with one exception, I think a married man not in the habit of hearing these reports, the whole of the other Officers declared Mr. McKenzie, as unworthy of their society until the transaction had been enquired into.

Q. After this last interview, did you receive a letter from me on the 13th May, and can you produce it.

A. I do not recollect receiving a letter of the 13th May.

Q. At what hour was the meeting of Officers held on the 13th May last.

A. It was about five o'clock in the afternoon.

Q. State the substance of the observations which you addressed to that meeting.

A. They were nearly as follow—Gentlemen, I have thought it necessary to call you here together in consequence of a circumstance which I shall mention, as having very recently occurred in camp, on my arrival I heard that a Court Martial had taken place in another Regiment, and was very much surprised to find that no report had been made of it by the individual concerned Lieut. McKenzie. That I had waited on Col. Fitz-Gerald, who was kind enough to give me the original proceedings of the Court Martial, on Private Charles McHugh, of the Regt. under his Command, which I had then in my possession and read to the Officers assembled. That I was surprised to find that for so serious a crime on which an Officer of the Regiment was a principal evidence, he had not thought it necessary to attend as Prosecutor, but had put off doing so on the plea of illness. This surprised me as he had only three days previous, made an application to me, requesting that I would obtain leave for him to go to Bombay, that I had called on the Assistant Surgeon of the Regiment, in presence of Lieutenant McKenzie, who had stated both to him and myself, that there was no cause which prevented his doing so, that his neglecting to do so, had given cause to various remarks that had come to my knowledge, and that as far as my opinion went, it certainly evinced a great want of feeling on the part of that individual, that to ascertain the truth of the generality of these reports, I had then called this meeting amongst ourselves, that I could not but disapprove of the conduct of Lieut. McKenzie, however, much I felt regret in saying so before the Officers assembled, and that I supposed the feeling of all the Officers would accord with my own.

I had in the course of this day the 13th, communicated to the Prisoner the meeting about to take place, which he was at liberty to attend or not as he pleased. He was present during the whole of the proceedings.

It being 3 o'clock P. M. the Court is now Adjourned until tomorrow forenoon, at 11 o'clock.

TWENTIETH DAY.

WEDNESDAY 26TH JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present, the same Members as yesterday.

Read over the Proceedings of yesterday.

The Prosecutors' answer to the preceding question continued.

After I had finished that part of the address, I called upon the Prisoner, who I think was on my right hand to ascertain from him whether he wished me to take the opinions of the Officers, either individually or collectively, as to the circumstances about which I had thought it necessary to call them together. It was at this time, I think that the Prisoner handed me a paper, which he wished me to read. It was irrelevant to the subject for which we were then assembled, which was about this man of the 20th, but however, his desire was that the opinions of the Officers should be taken. Seeing then that the whole transactions of Mr. McKenzie's past conduct must come forward, and as all the Officers of the Regiment were present at the Meeting, I thought it highly incumbent on me to bring forward the other reports, which I had heard were in circulation to his prejudice in the Regt. I drew the prisoner's attention to the circumstance of his having been the cause of the late private Cooke's reduction from Serjeant, to the indelicacy of an application having been made to me for this same individual Cooke, as a Serjeant only a few days after his reduction. Of the manner in which the Major of the Regiment, had volunteered to shew him the impropriety of his conduct with respect to this man Cooke, I also alluded to the circumstance of this man Cooke on his deathbed, leaving Lieutenant McKenzie the whole of his kit, which I remarked was a circumstance unprecedented as far as my knowledge went, and I also stated publickly that it had been reported to me as a fact, that Prisoner had been guilty of a falsehood. I then called upon the Officers who had been present at Colabah, and requested them to blend with their opinion of the Prisoner's conduct, any reports which they might have heard there to his prejudice,—with the consent of the prisoner, I took the opinions of the officers individually, commencing with the Senior, and I was fully put in possession of what I had only before heard, which was that reports highly reflecting on the character of the Prisoner had been in almost general circulation in the Regiment, both as regarded the man Cooke, and the circumstance of the man of the 20th, being found in the prisoner's bed.

Q. What were the grounds on which the statements in the above address were made.

A. On the reports that were generally made to me by the different officers of the Regt. and as I was present in camp only for a few days, I was anxious before I left the Regiment, to bring the whole subject under consideration. The meeting took place on the 13, and I left camp on the 14th.

Q. Did ever any of the officers of the Regiment, mention to you that they knew from their own personal knowledge, that an improper intimacy had taken place between me, and the late Private Cooke, or that Private McHugh had gone to my Bungalow for an improper purpose.

A. I do not remember any of the Officers going so far as to say, that any unnatural intercourse had taken place, otherwise I could not have brought it before a Military Court, but from what they said, their suspicions were strongly excited from the circumstances to which they have severally deposed in the course of these Proceedings.

Q. At the time you addressed the officers at this meeting, did you believe, or did you wish to impress on the minds of the Officers assembled, that McHugh had been actually found in the bed in which I was sleeping.

A. I made no allusion, as far as I can recollect, as to the man McHugh being pulled or dragged out of the bed in which Mr. McKenzie had been sleeping, I stated distinctly at the Meeting, what the Prisoner had declared to me at our personal interview, that the man McHugh had been pulled out of his bed, I did not attempt to influence the opininion of any of the Officers present at that Meeting, In fact they had heard or knew much more of the circumstance than I did myself.

Q. Did you hear previous to this Meeting, that McHugh had been found in an empty bedstead, placed in a room, at a considerable distance from the one in which I was sleeping.

A. That was so far communicated to me by the Prisoner, in his letter to the Adjutant of the 16th May last.

Q. Was this circumstance mentioned by you or by any one else at this Meeting.

A. No, I dont think it was.

Q. Were any proofs either given or asked for at this Meeting in support of your statement.

A. The feeling was so general throughout the whole body of Officers assembled, that nobody seemed inclined to give more than their opinion that Mr. McKenzie was not worthy of their society, until the business was cleared up. The falsehood which I boldly asserted had been communicated to me by the Adjutant was not denied by the Prisoner.

Q. What was that falsehood.

A. The falsehood was the promise given by the Prisonr to the Adjutant stated in the 1st Charge.

Q. When was this falsehood first communicated to you.

A. The day of the Meeting of Officers, the 13th May was the first intimation that I had of it.

Q. Can you produce the paper which I handled to you at this Meeting.

A. Yes, I can—This is it.

Lieutenant McKenzie requests Colonel Williams will repeat exactly what he said on his first interview, to give up his Authors, and also to state the exact words made use of.

He also requests Col. Williams to ask the Officers individually whether any thing criminal, dishonorable, or unlike a Gentleman, lies within their knowledge relative to him (Lieut. McKenzie), or whether they ever have heard any thing dishonorable to his character, and from whom.

Q. Did I not repeat these requests verbally before all the Officers.

A. I do not remember that you did so.

Q. Did you comply with these requests in any one particular.

A. No, I did not, I thought them irrelevant to what we were there assembled for, and I framed a question to the Officers which have directly on the point which was as follows—under all the circumstances of the case (alluding to the business of McHugh), did Lieut. McKenzie act as an Officer of the Regiment should have done or you would have done under similar circumstances, and whether after what has occurred, do you feel towards Lieut. McKenzie that ease and confidence which is necessary to exist among all brother Officers. "The Officers who were present at Colabah, had heard of the disgraceful reports that were in the course of conversation respecting the Prisoner, and I can assert as a fact, that weighed strongly with them all in the severe measure of the Prisoner's expulsion from their society."

Q. Was it stated at this Meeting in express terms that an improper intercourse had existed between me and the late Private Cooke.

A. Nothing more than what I have stated in a former answer, to the best of my recollection.

Q. Did any discussion whatever take place at this Meeting previous to voting my expulsion from the society of my brother Officers.

A. There was a discussion between the Prisoner and myself on some points about which we were met, and I recollect Captain Gridlestone on the question being put to him saying that he had heard the reports at Colabah, but that he did not believe them, and that an Officer of another Regiment Captain Stanley had stated to him, that the man found in Mr. McKenzie's Bunglow, had gone there by appointment, or something to that effect, that he had heard the reports have also relative to McHugh, and that they weighed strongly on his mind. I know of no other discussion, as far as I recollect.

Q. Am I to understand that this vote rested solely, or principally, on the report that a man of the 20th Regiment, had been found in my bed, without the slightest enquiry having been made, to ascertain the true meaning of this ambiguous expression on the real circumstances of the case.

Q. The note of expulsion of the Prisoner from the society of his brother Officers rested—1st, on the circumstance of the man of the 20th Regiment, found in his bed, and the apathy shewn by the Prisoner on that occasion—2dly, in consequence of the disgraceful reports in circulation amongst the Officers of Regiment when at Colabah—3dly, the falsehood to the Adjutant.

Q. Had the slightest enquiry been made previous to this vote, to ascertain the true meaning of the ambiguous expression *found in my bed*, on the real circumstances of the case.

A. I drew my conclusion entirely from the original proceedings of the Court Martial, on Private Charles McHugh, and I called upon the Prisoner, to explain the circumstance as I have above deposed.

Q. Is what Assistant Surgeon Campbell has deposed the precise terms of the message which you desired him to deliver to me.

A. To the best of my recollection I request Assistant Surgeon Campbell, would communicate to Lieut. McKenzie, that the reports in circulation to his prejudice were that the man found in his Bungalow or bed, had gone there by appointment.

Q. You did not authorize Assistant Surgeon Campbell to say "that the man found in my Bungalow, if not both men seen there, had come by appointment for the most abominable purpose."

A. I might have said so, but I do not recollect having gone so far.

Q. Why did you not mention this at the Meeting of the Officers.

A. I knew previously that it would be mentioned, as Captain Girdlestone had told me, that he would mention it being the person to whom the remark was made, and I thought the statement would come best from him.

Q. Did you receive a letter from Captain Stanley, in explanation of the remark mentioned by Captain Girdlestone.

A. I did, that letter was not written until the day after the expulsion of Lieutenant McKenzie from the society of his brother Officers. I received it on the 14th May, at about 2 o' clock in the afternoon, as I was preparing to start for Singhur—this is the letter.

Poonah, 14th May 1826.

My Dear Sir.

With extreme regret, and surprise, I have learned that some expressions made use of by me, in perfect jest, relative to men of the 20th Regiment, being found by Lieutenant McKenzie of your Corps, in his house, have been taken notice of in a very serious manner, I beg leave to assure you on my honor, that what I said was in joke, and I did not, or could not have had for one moment any improper meaning.

Believe me
To My Dear Sir,
Lieut. Col. Williams Your Sincerly
Queen's Royals W. A. STANLEY

Q During the conversation that took place between us, when I waited upon you on the 11th May, did you not make use of these or similar words, "you asked leave to go to Bombay, I'll take divilish good care you do not go—you shall never as long as you stay in the Regiment have leave, and if I can find an opportunity, I'll bring you to a Court Martial, and break you if possible."

A. I recollect perfectly saying words to that effect, but not until after the extraordinary lukewarmness shewn by the Prisoner, as to the man of the 20th Regiment found in his bed.—I never remember my feelings since I have been in Command of the Regiment, to have got to such a pitch as on that occasion, and I felt deeply the stain that had been cast on us in this Garrison. I must here also mention, I hardly know another Officer in the Regiment, who has given me so much trouble in various points connected with duty as Lieutenant McKenzie.

Examined by the Court.

Q Did you attach more importance to the circumstance of the Prisoners not prosecuting McHugh, from a knowledge of the reports in circulation about him on board Ship, and at Colabah, than you would have done had these reports not existed, or had they not been communicated to you.

A. Yes, when the reports of the Ship and Colabah were made known to me, I must candidly assert that the suspicion in my mind were very strong, for I think it is in the power of any man, of common prudence, to avoid an insinuation that went so deeply to affect his character.

Q. In your personal interview with the Prisoner on the 11th May, did you acquaint him with the reports in circulation to his prejudice.

A. Yes, I did, I told him that reports of an extraordinary nature regarding the man of the 20th Regiment, found in his bed were in circulation, and that those reports went directly to impeach his character on that point.

Q. Did you then acquaint the Prisoner with the reports on board Ship and at Colabah.

A. I don't think I did at that interview, I was

not in full possession of them at that time, so as to allow of my taxing him with them directly.

The Prosecution is here closed.

The Court is now adjourned until tomorrow forenoon at 11 o'clock.

TWENTY FIRST DAY.

THURSDAY 27th JULY, 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present, the same Members as Yesterday.

Read over the Proceedings of Yesterday.

Defence.—The Prisoner now enters on his Defence, and proceeds to adduce the following evidence in support of it.

Private Moses Lintott, again called into Court and examined on his former oath.

Examined by the Prisoner.

Q. While you were my servant, did I give you any shirts, stockings, trowsers, &c.

A. Yes, you did.

Q. When you were ordered to your duty at Colabah, in what Bungalow was I living.

A. In the small one near the Mess Room.

Q. How long before I went to Poonah were you ordered to your duty.

A. It might be a fortnight or three weeks, I can't exactly speak to a day.

Q. Do you recollect that after you went to your duty, you once or twice came to look after my horse.

A. Yes, I do.

Q. Did you on either of these occasions remain to help the native servant to prepare tiffin.

A. Yes, I did.

Q. Will you mention the names of any officers whom you saw at tiffin with me on that occasion.

A. Mr. Raitt, and Mr. Robertson.

Q. From the second day that I went to the small Bungalow, did you see Cooke enter my quarters.

A. No.

Q. Were you in Hospital about three months ago, and on what date did you come out of it.

A. Yes, and I come out of it on the 5th May.

Q. Since you came out of Hospital, what money have you received from me.

A. The first time I received four Rupees, and the second time three Rupees, making the amount seven Rupees, which is all that I have received from you.

Q. On what account did I pay you this money.

A. For cleaning the harness belonging to the gig.

Q. Have I, or any person for me, either given you any money, or promised you any money, to make you give evidence in my favor before this Court.

A. No.

Q. Have you ever told any body, that either I or any person for me gave any money or promised you any money, to make you give evidience in my favor before this Court.

A. No.

Q. Did you ever tell Lieutenant Littlejohn, that a Criminal intercourse existed between me and Cooke.

A. No.

Q. Do you know Reilly, Colonel Williams's gardener.

A. Yes.

Q. Did you ever hear Reilly say that, any witnesses who would be favorable to me, would all sooner or later be flogged if I got over my trial.

A. The words that I heard Reilly say, were that Mr. Kennedy was coming back on Mr. McKenzie's Court Martial, and he was very sorry they could not let him go when he was on his way home, and Lintott, if you and Turner, and two or three more, don't you'll come to the Halbards.

Q. Did Reilly state his reason for saying this.

A. No, he did not.

Q. Did Reilly say that he had heard any person say so.

A. No.

Cross Examined by the Prosecutor.

Q. How often have you been to Lieutenant McKenzie's quarters since he has been in arrest.

A. I can't exactly say how many times, but I have been down there several times.

Q. Are you positive that you have not seen Lieut. McKenzie any where within this last fortnight.

A. Not to speak to him, I have not.

Q. But where was it you saw him, and why did you not speak to him.

A. I saw him standing outside of his Bungalow, and I did not speak to him because I thought it not a proper thing while this Court was carrying on.

Q. Have you within the last fortnight or three weeks gone to any other officer's quarters, and had some conversation relative to his Court Martial.

A. I was up at Mr. Eyres.

Q. How often were you there.

A. I was up there four times.

Q. Name the dates on which you were there.

A. The first time I was sent up by James Turner, the day after the Court Martial, met and Turner went with me, but I cannot mark any other day except that day.

Q. Can you state any part of what was said to you on any one of these four occasions.

A. Not on the first time, as Turner was the man that went in, and Mr. Eyer did not want to see me at all, the three other times I was asked if I had been sent for by any one, and my answer was no.

Q. Was any thing further said to you.

A. I can't remember of any thing else being said.

Q. Do you mean to say that you went three times merely to be aked if you had been sent for by any one.

A. Yes.

Q. As you assisted the native servant in preparing tiffin at Lieutenant McKenzie's quarters on the day above deposed, do state to the Court what the dishes consisted of.

A. There was bread and cheese, and cucumbers, cut up into a bason, but I don't just recollect what the dishes were as they had been sent for to the Mess before I came.

Q. Were you always at Lieut. McKenzie's Bungolow, and could not Cooke have gone there upon many occasions without your knowing it.

A. It was not at all times, I was there, and Cooke might have been there without my knowing it.

Q. How long were you in Hospital before you came out on the 5th May.

A. Seven weeks.

Q. On the occasion of your being sent for by the Commanding Officer, did you mention that the seven Rupees you got from Lieutenant McKenzie, was for cleaning harness.

A. No, I did not.

Q. Did you ever hear of such a sum as seven Rupees given by any Officer, for cleaning a set of harness.

A. The seven Rupees was given to me for, I cleaned the harness more than once.

Q. As a Soldiers wages is generally four Rupees a month, did you not think it little, odd that Lieutenant McKenzie should pay you so very liberally for so trifling a service as cleaning a set of harness even of it had been done very often.

A. No, I did not.

Q. How long ago is it that you received the four Rupees, and how soon after did you receive the three Rupees.

A. It was about a week after I came out of the Hospital, I received the 4 Rupees, and about three weeks after, I recieved the 3 Rupees.

Q. Did Lieutenant McKenzie tell you expressly this money was for cleaning the harness, or did you merely suppose it was for this purpose.

A. I had cleaned Lieutenant McKenzie's harness several times before I went into the Hospital, without receiving any thing for it, and I could not suppose that the money was for any thing else.

Q. At the times you say, you cleaned Lieutenant McKenzie's harness, had he not a regular servant from the ranks.

A. Sometimes he had, and sometimes he had not.

Q. Do you wish the Court to understand, that Lieutenant McKenzie did not tell you for what service this money was given.

A. This last time he did not tell me for what service the money was paid, but the second time he told me it was for cleaning the harness.

Q. How many shirts and trowsers did Lieut. McKenzie give you, while you were his servant.

A. He gave me four shirts and three pairs of trowsers.

Re-examined by the Prisoner.

Q. Have you not always been in the habit of cleaning my gig and harness when out of Hospital, and have you not generally been in the habit of receiving four or five Rupees per month for so doing.

A. Yes, except the month I was in Hospital, and on coming out, I received four Rupees.

Q. To the best of your knowledge how many days after I went to live in the small Bungalow, did Cooke go into Hospital, and how many days before I went to Poonah did he came out of Hospital.

A. I don't exactly know how many days after, but he went into Hospital and he came out of Hospital the day before you went to Poonah.

Examined by the Court.

Q. Were the Clothes you received from Lieut. McKenzie, old or new.

A. Old.

Private Lintott withdraws.

Private Hawkins 2d or Queen's Royal Regiment, called into Court and duly sworn.

Examined by the Prisoner.

Q. Were you Lieutenant Kennedy's servant on board the Inglis.

A. Yes.

Q. Explain the situation of your master's cabin, and of what materials the partition was made.

A. It was between the sixth mates and the midshipmans, and the partition was made of canvass.

Q. When your master was out, who took care of the cabin.

A. I did always.

Q. When both your master and yourself were absent, who took care of it.

A. I had always the key with me.

Q. Did you ever see the late private Cooke sitting in your master's cabin when I was present.

A. No.

Q. Did you ever see Cooke behave with the least familiarity or disrespect to Lieutenant McKenzie.

A. No, nothing like it.

Q. Do you remember on board that Ship a young recruit named Johnstone.

A. I do.

Q. Did Lieutenant Kennedy take any care of him when he was sick.

A. He did, sometimes he would send him a little chicken broth.

Q. Did he ever eat his broth in Lieut Kennedy's cabin.

A. Not to my recollection.

Q. Have you seen Cooke in Lieutenant Kennedy's cabin.

A. Yes.

Q. What was he generally doing when you saw him there.

A. He was generally fastening some trunks of Mr. McKenzie's.

Q. Who went to the steward for what was wanted by either Lieutenant Kennedy or myself.

A. I did always.

Q. Did I ever give Cooke any thing to eat or drink, without Lieut. Kennedy being present.

A. No, Mr. Kennedy was always present.

Cross Examined by the Prosecutor.

Q. Was Lieutenant McKenzie in the habit of coming to your master's cabin, and occasionally sitting there.

A. He was.

Q. Can you be sure that nothing was ever got from the steward for your master and Lieutenant McKenzie, but what you got from him.

A. Nothing could have been got without my knowing of it.

Q. Had Lieutenant McKenzie no servant of his own, who might have got things from the stewart.

A. Lieutenant McKenzie had a servant, but he could not well have got things without my seeing of it.

Q. Who was Lieut. McKenzie's servant on board Ship.

A. It was Lintott.

Q. Have you ever known Cooke when a Serjeant, perform the duty of a servant to Lieut. McKenzie on various occasions.

A. No, I have not.

Q. Were you never on deck, and can you positively say on your oath, that Cooke never did and never could have eaten or drank in your master's cabin without your master being present.

A. He could not very well, as when I was on deck I used always to take the keys.

Q. Was Cooke a Serjeant at the time he was fastening or looking after Lieutenant McKenzie's trunks in your master's cabin.

A. He was.

Q. You have already deposed that you have seen Serjeant Cooke fastening or looking after the trunks of Lieutenant McKenzie, and you have just said you never saw him do the duty of a servant, how do you reconcile this contradiction.

A. Because I just saw him fastening the trunks helping Lintott.

Q. As it was in your master's cabin why should Cooke be called when you were on the spot to assist.

A. I was there with them assisting.

Q. Was it customary with Officers servants to lock up their master's cabin and take the key with them as you did.

A. No, they did not, but Mr. Kennedy desired me always to do so.

Q. You have said that Lieutenant McKenzie was in the habit of coming to your master's cabin, did you always turn him out and lock the door when you went on deck.

A. No, When a Gentleman came into the cabin, I waited at the door outside.

Q. Have you never withdrawn to your birth, gone to your dinner, or gone upon deck leaving Lieutenant McKenzie in your masters cabin.

A. Yes I have.

Private Hawkins withdraws.

The Court is now Adjourned until to-morrow forenoon at 11 o'clock.

TWENTY SECOND DAY.

FRIDAY 28th JULY 1826.

At a General Court Martial then holden at Poonah pursuant to Adjournment.

Present, the same Members as yesterday.

Read over the Proceeding's of yesterday.

Lieutenant Kennedy again called into Court and Examined on his former oath.

Examined by the Prisoner.

Q. Did you come out in the same Ship with me.

A. Yes.

Q. Had you a seperate cabin.

A. I had.

Q. State how that cabin was constructed, and how it was situated with reference to other cabins.

A. It was made of canvass and situated opposite the main hatchway, between the 3d mate's and midshipman's Mess.

Q. Do you think it possible for a criminal intercourse of any kind to have taken place in that cabin without its being perceived by those who occupied the Cabins on both sides.

A. I think it quite impossible.

Q. Do you recollect the late William Cooke on board the Inglis.

A. Yes, I do.

Q. Do you recollect how he was employed by me.

A. Perfectly, he was employed in cutting your hair, sharpening your [illegible], taking care of your canteen and w[illegible]

Q. Was he employed by other Officers, and by whom.

A. He was, I have seen him employed frequently by Lieutenant Littlejohn, and Dr. Ralph, and cutting the hair of other Officers.

Q. Are you acquainted with my reasons for obtaining permission for Cooke, to be excused his watch on two or three occasion.

A. I have some rememberance of your twice telling me that Cooke was unwell, and that it was on that account you had obtained permission for him.

Q. Do you recollect to what cause his being unwell was ascribed.

A. I remember your saying that Cooke had told you that he had been rubbing in mercury for Mr. Littlejohn, and that it had taken some effect upon himself.

Q. Did you ever see the late William Cooke eat any thing in your cabin.

A. I never saw him eat there.

Q. Do you recollect being present when a sick Soldier was furnished with something to eat in your cabin.

A. I do perfectly.

Q. State who that individual was, and how he came to eat in your cabin.

A. He was a young Scotch lad of the name of Johnstone, a recruit, that I had enlisted in my own part of Scotland, who had been very ill with fever and dysentery on board Ship, and was recovering and with the permission of Doctor Lawson the Surgeon of the Ship, I got him a bowl of fowl-soup & a glass of port-wine negus every a for a fortnight at least and gave them to him in my own cabin.

Q. Did Johnstone ever sit down in your cabin.

A. Every day when he ate his soup as he could scarcely stand.

Q. Did you ever see Cooke sit down in your cabin when I was present.

A. Never, except once when he was sitting down cleaning the things of the Canteen, assisted by your servant Lintott and mine Hawkins.

Q. Do you recollect whether Lieutenant Cooper or Ensign Dickson, ever entered your cabin when Johnstone was eating his soup there, and how often.

A. I don't remember, but I think it very likely as both Lieutenant Cooper and Ensign Dickson, were often during the day coming into my cabin, and I have since understood from Mr. Cooper since coming up to Poonah, that he believed he had seen Cooke eating in my cabin, but I feel convinced that he was mistaken and had taken Johnstone for Cooke, as the lad always sat with his back to the door.

Q. To whose care did you leave your cabin when you had occasion to quit it.

A. To my servant, a man of the name of Hawkins of the Regiment.

Q. On board Ship, did you ever see me treat Cooke with the least familiarity in intimacy.

A. Never, in the slightest degree.

Q. On board Ship had any undue intercourse existed between me and Cooke, could it possibly have escaped your notice.

A. I think it could not certainly.

Q. After the Regiment landed at Colabah, had you not constant access to my quarters.

A. I had.

Q. At Colabah if any undue intercourse had existed between me and Cooke, could it possibly have escaped your notice.

A. No, I think not, part of the time however, I was confined by illness, but I feel convinced that nothing of the kind ever took place, and to the best of my recollection, Cooke too was sent to Hospital a short time after I was taken ill.

Q. Have we not lived together on the most intimate terms from a short time, after we embarked on board Ship, until you left the Regiment on furlough to Europe.

A. Yes, we have been a great deal to[gether] on board Ship at Colabah, and at P[oonah]

Q. Did you ever observe any thing [improper] conduct towards my servants, or pe[rsons] employed by me, which could afford [the] est grounds for such reports, as a[re] in the 1st and 3d Charges [against me] Court.

A. Never, I never saw ser[vants] ful to their masters as yours w[ere]

Q. After the conversatio[n] McLean and Lt. Meldrum, to[ld] above deposed, state how I w[as] my return from Poonah, by the [Officers of the] Regiment, and by these two Office[rs] cular.

A. You were received remarkably [well by] all the Officers, and most kindly by Captain McLean and Lieutenant Meldrum, you then lived with Lieutenant Meldrum and was frequently in Captain McLean's house, with whom you told me you were very much pleased.

Q. Have you any recollection of being at my Bungalow, between the 23d and 30th of April last, one evening, when Lieut. Crosby and Marsh were present, and if so, do you remember that after the departure of those Gentlemen an Officer of the Queen's Royals came in.

A. Yes.

Q. Have the goodness, to mention the name of that Officer, and to state in as precise terms as possible, the conversation which then took place relative to the Light Company.

A. Ensign Dickson, he first talked of the Fort of Singhur, and his visit to Col. Williams,

(Continued in the Additional Supplement.)

2d Additionnl Supplement to the Bombay Gazette.

WEDNESDAY, 25TH OCTOBER 1827.

(Continued from the last Page of Add. Supt.) habit of looking after my Cot, and the second, that he was seen to take something to eat, in Mr. Kennedy's Cabin. The first is testified by Lieut. Dalway, and Capt. Graham, and forms, with other services, which he does not choose to detail, the grounds of the latter Officer's belief in the existence, of an *extraordinary* attachment between Cooke and myself. And he calls associating with the man, my employing him about my person—a definition which affixes association with privates on every Officer, who keeps a Regimental Servant, and on all those, particularly, for whom Cooke performed little Jobs on Board a ship, or else-where, such as cutting their hair, and attending to administer medicine when sick, but as I have no reason to presume that an equally illiberal construction will be put upon this circumstance by the Court, I may very safely wave all farther discussion upon it, and abandon it to its fate.

The other fact, viz. that this man was seen to take something to eat in Mr. Kennedy's Cabin is sworn to by Lieut. Cooper, and Ensign Dickson, but Lieut. Cooper only asserts that I was present at the single instance, which he witnessed, while Ensign Dickson makes no mention whatever of my presence at any of the several repasts, which he states came under his own observation although, he deposes to having sometimes seen Mr. Kennedy there, who was the sole occupier of that Cabin. It is, therefore, not unfair or unreasonable to suppose, as I am not even alleged to have been present on any of the occasions deposed to by Ensign Dickson, that the individual seen to eat in Mr. Kennedy's Cabin, was brought there at the instance of the latter officer himself. Nay is not this matter placed beyond the possibility of a doubt by the testimony of Lieut. Kennedy, and after hearing his Evidence, can there remain the least question that both Lieut. Cooper & Ensign Dickson have confounded Johnstone, the object of Lieutenant Kennedy's kindness, and humanity, with Cooke, the unfortunate and departed subject of these horrible insinuations—Both Lieut. Kennedy and Private Hawkins declare that Cooke never partook of a repast in Lieut. Kennedy's Cabin during the whole Voyage, and if such a circumstance had occurred it was not to pass unnoticed by either one or both these witnesses, whose opportunities for observation were at least equal to those of Ensign Dickson and Lieut. Cooper while Lieut. Kennedy offers a simple and easy reason for the mistake, by asserting that Johnstone, when taking his nourishment, always sat with his back to the Cabin door.

With respect to the second head into which I have divided this Charge, viz. that after Cooke was reduced to Private I persevered in the alledged undue intercourse although cautioned on the subject and ordered repeatedly to discontinue such conduct by desire of the Commanding Officer—The Court will observe that the Prosecutor has not adduced the slightest proof in support of this allegation—For the evidence of both Major Johnston and Lieut. and Adjutant Littlejohn applies merely to the circumstance of my having written a Letter to the Prosecutor, requesting that I might be allowed to take Cooke after his reduction as a servant—With this application Lieut. Colonel Williams was displeased and I never afterwards renewed it—Lieut. Littlejohn has, indeed, in his deposition, added some rather extraordinary particulars to this circumstance; but he has not ventured to depose that the Prosecutor gave him any farther orders than " to carry back the Letter (in question) to Mr. McKenzie and to tell him how much he (Lieut. Col. Williams) was annoyed by his asking such a question, and begged that he might never hear from him again on the subject."

Even the Prosecutor himself gives the same Evidence in answer to the following questions.

Question. Did you ever order me not to allow Cooke to come to my quarters.

Answer. Yes, I think I have—I may say positively I have.

Question. In what manner and on what date was this order conveyed.

Answer. I think it may be dated the 22d July 1825—the day the Adjutant conveyed to Mr. McKenzie my refusal to the application he then made for Cooke as a servant.

It thus appears fully that the only time the Prosecutor ever in any manner communicated with me respecting Cooke was simply and solely to express his disapproval of my applying for him as a servant, so immediately after his reduction—Never did the Prosecutor caution me on the subject of an undue intercouse as alledged in this Charge, nor order me to discontinue it; and what is equally remarkable he has not attempted to substantiate this allegation in any manner whatever, but on the contrary has clearly shewn his inability to do so, by adducing proof to a point perfectly foreign to the Charge—For it is self-evident that an application for Cooke as a servant which was instantly refused cannot possibly establish that an intercourse, undue or otherwise ever existed between me and Cooke—That this individual was, subsequent to this refusal of my application, occasionally at my quarters, I admit, but the Court, I flatter myself, will be of opinion that in allowing him to come there I neither disobeyed any caution or order given by my Commanding Officer, nor maintained any intercourse with him which was unbecoming an Officer & a Gentleman. And here I cannot help calling the attention of the Court to the arduous task entailed upon me, of defending myself against accusations, framed [redacted] many months after the occurrence of the challenged conduct, and the peculiar disadvantage I labor under in my endeavours to repel the testimony upon this charge, from the absence of almost every person, by death, or departure from India, whose knowledge of the facts in issue could qualify them to depose in my behalf. The unhapy and slandered subject of all this discussion has long ceased to exist of the two medical men, who visited me in my illness, on the night he committed the offence for which he was reduced, one is dead, and the other gone home. Captain Waring, who valuntairly selected him to act as a servant on the evening of my small party, is also returned to England ——— Captain Jackson who shared with me the same Bungalow, at the period of Cooke's occasional visits, with whom I was in closer and stricter friendship than with any other Officer of the Regiment, whose lofty sense of honor would have prompted him to shrink from me as from one whose touch was pollution, if he had ever seen the most trifling want of self respect in my demeanour towards a Private Soldier, has also been permitted to quit the Country, and even Lieut. Kennedy my only remaining intimate associate in India, who, while I was at Poona on duty, received Cooke's dying words of thankfulness and gratitude for all my kindnesses towards him, was allowed to quit the station, and embark for England, with two years leave of absence, the Ship had actually sailed, but by almost a miraculous interposition of Providence was driven back by stress of weather, and her anchor was just lifted out, out the ground, and her sails set a second time, under more favorable prospects of clearing the harbour, when the Commander in Chief's summons, at my instance, was fortunately delivered to Lieut. Kennedy. If to this he added the secret endeavours of several Officers of the Regiment to detach from me every person of respectability at this station, by whispering hints and insinuations of the foulest species, up to the very day preceding the trial, and which, although some of these calumnitors have been examined, none of them have ventured nor offered to verify, what conclusion is it possible for me to draw, but, that it was intended to cripple me in my only means of defence, to strip me of all friendly counsel and assistance, in a case the most appalling to the judgment, that was ever submitted to the decision of a Military tribunal, to throw me back upon the resources of my own unassisted faculties' already overwhelmed and laid prostrate by the withering effects of this detestable charge to bind me hand and foot, like a lamb for the sacrifice, to offer me up as an oblation to the gratuitous prejudicies and angry feelings of those, whose consciences loudly accused them of having too deeply injured me, ever to expect, or to hope for forgiveness, besides as this allegation rests entirely upon the unsupported testimony of Lieut. Littlejohn, the Court, I hope, will pardon my occupying a few seconds of their time, in examining the claims of that Officer, to implicit belief, on his bare ipse disit.

The two most essential ingredients, entering into the compound of a witness credibility, are his *impartiality*, and *consistency*. If then you find that he has so indentified himself with the prosecution, as to overstep the bounds of his official function, by the exertion of those powerful instruments, *intimidation* and *hope*, which his situation places at his disposel, over the minds of those, whose rank and circumstances in life render them peculiarly susceptible of undue influence, as in the instance of Privates Turner and Smith. If you perceive that his evidence, in every point that could give effect to the prosecution, was delivered with a readness, a promptitude and an eagerness, which bore the strongest stamp of pre-concerted arrangement, and previously well digested reflection—while his answers to many questions calculated to prove beneficial to my defence, by their tendency to bring forth exculpatory matter, were reluctantly wrung from him by reiterated interrogations, and not delivered till he had weighed the value of every word, and balanced the import of every syllable. If you call to mind his admission that he participated in a conversation imputing to me an offence, the bare mention of which makes the blood freeze in the veins, and against which the Law levels the most dreadful penalty, without being able to trace in his memory, either the name of one person who composed the number of his slanderous associates, or the time when, or the place where, this detestable subject was canvassed. If you recollect, that on the first day of this trial, he successfully resisted every attempt, both on my part and on that of the Court, to obtain from him the precise terms, and the name of any one author of these abominable reports, which he represented himself to have heard to my prejudice, and that ten days afterwards, when again brought into Court, he recited that specific, but disgusting anecdote which he pretends to have received from Private Harrower, but which even the individual, abandoned as he has shewn himself to be, never dared to glance at his evidence, & if, superadded to all this you find his testimony directly contradicted in one most material particular viz. the place where Cooke passed the night of 14th July, by unimpeachable evidence of a respectable Non-commissioned Officer, Serjeant White, I am sure you will concur with me in the opinion that the pretensions of Lieut. Littlejohn to entire credibility rest upon a very slender basis indeed.

The last evidence adduced in support of my having employed Cooke, after the pretended pledge given the Adjutant, is Lieut. Raitt, who asserts having seen Cooke once attending at tiffin when Lieut. Robbertson and he were there, either in the latter end of September or the beginning of October—but it has been proved in evidence that Cooke died on 6th of October, and by Lieutenant Kennedy that Cooke went into Hospital upwards of three weeks before his death, and Lintott deposes to *his* having waited on Lieuts. Raitt and Robertson at my house at tiffin—now, as it is never pretended that Lieuts. Raitt and Robertson were together at my house more than once, a fair presumption of his having mistaken the man may be drawn, attended as it is with that circumstance, so unfavorable to accuracy, of its having *struck him suddenly nine months* afterwards, and at a time when his mind must have been peculiarly prepared for such an idea, by the circumstances of this trial being then the common subject of conversation—he never saw Cooke before or after and my caution to him can be easily explained from the circumstance of Lintott having been removed from my Service, but a short time before, under the displeasure of the Commanding Officer. Had Lieut. Robertson's evidence been corroborative of this fact, it cannot be supposed that the Prosecutor would have withheld such material testimony from the Court.

With respect to the concluding paragraph of this division of the first charge viz. " that my conduct gave rise to reports highly disgraceful and prejudicial to my character amongst the Officers and men." I am unwilling to disturb either the equanimity of my own temper, or to intrude upon the time of the Court with any prolonged discussion. The subject is extremely painful and distressing, and the task of commenting with the requisite severity upon that mass of evident malignity exhibited in the indistinct and *contradictory* testimony of many of the Officers called in support of this charge, is by no means gratifying Such a lamentable *defect of memory*, uncertainty of expression, confusion of ideas, and inconsistency of evidence as was displayed by a considerable portion of these Officers, was never perhaps, before witnessed in a Court of Justice—I cannot however conclude this branch of the subject without intreating the Courts attention to one of the circumstances, upon which has been raised a presumption, that a criminal intercourse subsisted between me, and the departed individual, whose name has been so frequently introduced in these proceedings, I allude to his having bequeathed to me his small property.

It has been more than once remarked by the highest Judicial authorities, and it is an undisputed principle of English Law, that when a person is at the point of death, and when every hope of this world is gone, when every motive to falsehood is silenced, and the mind is induced by the most powerful considerations to speak the truth, a situation so solemn and so awful is considered by the Law as creating an obligation, equal to that which is imposed by a positive Oath, administered by a Court of Justice.

It is not expected that every Officers should be deeply conversant in matters of Law, but the aforegoing observation is so consonant to common sense, and so likely to suggest itself to the most volatile and more reflecting, that nothing but a most extraordinary proneness to attach credence to every thing, which had the defamation of my character for its object, however absurd, or even impossible; or a mind habituated to the contemplation of the impurest of subjects, could for a moment have construed Cooke's humble tribute of respect and gratitude, accompanied as it was by his dying declarations of thankfulness for all my bounties towards him, into an acknowledgement of his having committed the foulest, and most detestable of crimes, and a reward to his no less guilty and filthy associate.

Fourthly.—That those disgraceful reports were brought to my notice—and that I exhibited so criminal a disregard to my own honor and character as to take no steps to vindicate myself from the Stigma cast upon me.

Of the twenty-two witnesses examined on this charge every one has distinctly sworn that he never made me acquainted with, what are termed, the reports.

The Prosecutor, with a strange inconsistency has expressed his being anxious to have the evidence of Lieut. Kennedy to substantiate this part of the charge. yet allowed him to take his passage and actually embark for England, compelling me to be the instrument of his recal, at an incalculable disadvantage, pecunary and otherwise, to this Officer, when as I have already said, his Ship was actually under weigh to quit India.

Does not the Court readily perceive the ungenerous advantage that was here intended to be taken of his absence, by the wording of the first count of the orginal charges under which I was placed in arrest viz. " That these reports must have reached my knowledge, because they were the subject of common conversation among the officers" and, Lieut. Kennedy having been present at the conversation between Lieut. Meldrum and Captain Maclean, an attempt would have been made to establisb, that as Lieut. Kennedy was my intimate associate, and had exhibited the highest zeal in defence of my honor, the conclusion of his having brought these disgusting reports to my knowledge became inevitable.

The providential return, however, of this Officer has shewn to the Court, that not only were these reports, as they are called, never conveyed to me, but that the most strenuous endeavours were made to conceal them both from me and from Col. Williams—Lieut. Kennedy details to you the reprobation and indignation with which this disclosure was heard by him, and you have also before you the result of his avowed determination to acquaint Col. Williams and me with this affair—he is begged and intreated not to do so, in terms which amount to a retraction of *all* that the reporters had originally said, and so apprehensive were they of the consequences to themselves, that they renewed there intreaties for concealment, on the following morning, backed by every argument in their power—Mr. Kennedy, it will be necessary, to observe, was an Ensign, Captain Maclean, the Senior Captain, and Lieut. Meldrum, the second Lieutenant in the Regiment—and whatever just and generous resolutions Mr. Kennedy might himself have formed, he paid such deference to the arguments and intreaties of his Seniors, accompanied as they were by the retraction of their unfavorable opinions, that he did what has so nearly proved fatal to my happeness for ever.

In conclusion, I beg the Court will observe, that throughout the Prosecution on this charge, while the Prosecutor has been roaming over the wide waste of *Hear say*, and following *opinion* like a will O'th'Wisp, it is I who have indeavoured, in the cross-examination, to conduct the witnesses on the high road of legitimate evidence, to that goal where alone we could hope for a termination of our labors, I mean the discovery of the originator of these surmises.

With regard to the second charge little is necessary to be said.—It avers that I omitted to report to the Commanding Officer of the XX Regiment that I had caused to be confined Private McHugh for having been found out of Barracks and in my quarters at 11 o'clock at night—and though it would be no difficult matter to point out the insufficiency of the testimony of Adjutant Hollingsworth the only witness adduced on this charge, to operate to my conviction, if I were disposed to avail myself of that maxim of Law which requires the best Evidence to be produced which the nature of the case admits yet as there is abundance of uncontested Evidence to prove that the spirit of his Majesty's regulations respecting the confinement of McHugh was strictly adhered to in the mode by which Col. Fitz-Gerald was apprized of that circumstance, I feel less solicitous to escape from any penalty, which may be awarded for a trifling deviation from *the letter*, Serjeant Russell has deposed to my having directed him to make out a crime against McHugh, to his having delivered that crime to the Serjeant of the Guard in which the offender was confined, and Adjutant Hollingsworth testifies to its having reached Colonel Fitz-Gerald in the common and usual form of a Guard report, and it would require but a very small portion of that sagacity and intelligence which has been uniformly manifested by the Court throughout these proceedings, to distinguish between that sullen disrespect towards Col. Fitz-Gerald, and contempt of his Majesty's regulations, which would have been included in my having fatally omitted to bring the matter to his notice, and that strict fulfilment of the Royal intention, but inconsiderable departure from the precise letter of the general orders, comprised in the circuitous mode I adapted to make the Colonel acquainted with McHugh's transgression.

Bisides, Col. Fitz-Gerald himself appears to have been so little aware of any informality in this method of procedure, that he not only did not signify any displeasure to me on this account, but immediately proceeded to act upon the report, which I had caused to be delivered in the same manner as he would have done, if the circumstance had been notified with all the strictness and precision enjoined by the regulations. This is demonstrated by his directing Adjutant Hollingsworth to inform me of the appointed day for the trial of McHugh.

The third charge is involved in the uncertainty which the Judge Advocate General has pointed out to the Court viz that I neglected a requisition to prosecute, and to explain the extraordinary circumstance contained in a charge, *not sent in by me*, which, *I never saw*, and which was *never communicated* to me, thereby giving rise to reports disgraceful to me, and highly discreditable to his Majesty's service.

That I did not see the amended charge, there is abundant evidence before the Court to prove, and that the alteration of the original charge, sent in by me through Serjeant Russell, was not intimated to me by, Ensign and Aajutant Hollingsworth letter requiring my attendance will also be readily admitted.

But, although on this uncertainty alone, on which all the premises of the charge are dependant, I might claim an acquittal. Yet, I intreat the Court, if you can wave this advantage in my favor, consistent with your duty and your consciences, to consider the case as if the accusation in the charge were correctly worded, that I may not be deprived of the benefit of your Judgment in examining how far my conduct bears out the inferences drawn thereon.

The first accusation is my having neglected the requisition of the commanding Officer of 20th Regiment to attend the Court Martial of McHugh. This I have met by complete proof of my then being in the sick report, and therefore, according to standing orders, and the rules of the service, *I ought not to have gone*, and to this point alone, I am convinced, that the Court will direct its judgment, notwithstanding the *subsequently* expressed opinion of Dr. Campbell. that *I might have gone* either in a buggy or a palankeen, and least of all that the Court will allow, for one moment, the horrible inferences drawn by the prosecutor and his supporters to enter into it consideration, otherwise than to express that scorn and contempt of them, which they so richly merit, and here I cannot but draw the recollection of the Court to the degree of virulence which must have operated with the Prosecutor to induce him to answer the two plain simple questions which have been put to him, on this division of the charge, in the manner he has—I allude to those respecting the propriety of an Officer in the sick Report performing Military duty, and on the regular mode of requisition for obtaining the attendance of an officer.

" The next accusation is, that I neglected to take any measures to explain the extraordinary circumstance stated in the said charge, that the said private MacHugh was found concealed in my bed."

The prosecutor, in his examination as to the extraordinary nature, of this circumstance, states it to consist in MacHugh's being found in a bed of mine, but on being pressed for a definition of how this circumstance was in itself extraordinary becomes perfectly unintelligible, Perhaps the leading feature, that entitles it to the epithet " *Extraordinary*" is, that it is not an every day occurrence, but let the term be applied in any sense most favorable to the Prosecutor's meaning, and thence examine how my criminality can be deduced from it.—First, as to the *facts* of the case—in the discussion of which, I will suppose that I am not entitled to establish my own credibility by mere assertion, and that I must, therefore, begin where corroborative testimony, supports me—this will be found to occur when I entered the guard-room of Serjeant Russell, and told him two men were in my house whom I wished him to assist me in apprehending. Serjeant Russell follows me with a file of the Guard, and sees both the men in my house.

It is natural to suppose, that hearing us com-

ing, they acted in the best manner they could to avoid detection, in consequence of which, one of them jumped out of the window, and the other concealed himself in the empty bedstead furnished with curtains, close to that window—for it would have been an impossibility for both the men to have scrambled through the window at the same time, admitting that McHugh was not too drunk, which is left very doubtful.

The Serjeant deposes to having seen the man jump out of the window, to his having followed him, and to his having taken McHugh Prisoner in the bedstead. This is the plain statement of the case divested of the filthy surmises which have been formed from it, and it is neither for the prosecutor, nor for me, but for the Court to decide, what extraordinary circumstance I neglected to explain, which can affix upon me the criminality contained in the charge an explanation of the circumstance was as much required by myself as by any other person, concealment of the story, or any variation in the relation of it would have been just grounds of accusation, but where are these to be found? I stated the story, as far as I was acquainted with it to Ensign Hollingsworth, to Lieutenants Meldrum, Lister, Corney, Cooper, Ensign Dickson, and to the Prosecutor, the last named has sworn that he did not consider my relation of the business to be satisfactory, nor would it have been, had my mind been encumbered with the horrible surmises communicated to him by some of the Officers of the Regiment, my plain statement was written under a total ignorance of the existence of any thing of the kind.

With regard to Ensign Dickson I am exactly similarly situated, he states that he turned away from me "*in disgust*" on finding I was not going up to the lines of 20th to prosecute McHugh.

This young Officer's mode of giving his evidences both on this and on the first charge, cannot have escaped the observations of the Court—and as he may be fairly considered, as yet to be too inexperienced to have exercised his Judgment very frequently in drawing conclusions, I will shew him the reason, of which he is probably ignorant why we had such opposite feelings on the subject of our conversation, by a familiar illustration.

It may perhaps fall with in the scope of his boyish reading, that in the days of Chivalry, two knights once arrived, by different roads, at the place where a statue stood, resting on a shield. which was painted *white* on *one side*, and *black* on *the other*, and that viewing it as they did from opposite directions, a desperate contest was the result of their difference of opinion as to its color just so were Ensign Dickson and I situated in viewing the affair of McHugh's trial—he, in full possession of the filthy surmises that had been formed, never considered that I was totally ignorent of them—and he must therefore, refer the real cause of his "*disgust*" to the nauseous, ingredients with which his own mind was stored.

Will the Court, coincide in my Prosecutor's opinion of my having done nothing to "*explain*" as he terms it, "*this extraordinary business*" when you come to weight the proof on your proceedings, of my having taken up MacHugh and having sent him to his corps for trial?—Is my having requested Lt. Eyre to do his utmost to induce McHugh to discover his accomplice and his motive—having done nothing?—a member of the Court, a field Officer of the XX. Regiment, has voluntarily confirmed Lt. Eyre's Evidence on this point by informing you that every effort had in vain been made in the Regiment to induce McHugh to come to a confession, and that the man has not been brought before this Court arises from the repeatedly expressed opinion of the Judge advocate General, that he would have been a useless witness.

Every attempt of the Prosecutor to prove any averment of this charge is dependant on its being gratuitously allowed him, that the disgraceful reports naturally arose from McHugh having entered my house, and my not having gone to prosecute for the search would be vain for any Evidence on this point, that can be put in competition with that produced by me on my mode of proceding when I discovered McHugh in my house, and my proof, that I did not go to prosecute because I was in the sick report.

The private opinion of Lieut. Eyre, forced from him by the Prosecutor on the cross examination for the defence, will furnish me with the few remaining words that need be said on this part of the subject "Had I been aware of the *disgusting calumnies* to which these circumstances had given birth, I should have acted in a very diff rent manner." I do most solemnly aver I should—I would, in that case, have attended the Court Martial, though I should have been conveyed from it to my Grave.

If the acts committed by me directly authorize the inferences drawn from them, then were they highly disgraceful and discreditable to his Majesty's service, if they do not, the Justice of this Court will, I am confident, fix that disgrace, and that discredit where they will then be due, on the instigators and propogators of these inferences.

Having arrived at this stage of the third charge, it will be found that the proof for the prosecution, under very different circumstances however, is involved in the same net of Hearsay and opinion as was encountered on the first charge but the Court will not I am convinced, in its Justice, extend that indulgence to my accusers for then *want of recollection of facts* happening only *eight days* before the Mess meeting, as they may be disposed to allow them on circumstances that happened 11 *or* 12 *months ago* this as far as respects the majority of the witnesses, will only tend to the rejection of their meagre evidence—they will escape somewhat from the obluquy, by having had the grace to with draw from fathering this graceless bantling of the foul imagination of some one amongst them.

But a higher responsibility will be found to attach to the Prosecutor, in his double capacity as such, and as Commanding Officer of the Regiment—it was his bounden duty to have sought out the originator of these inferences, and to have examined him strictly as to the facts from which he drew such abominable surmises—Yet, he does not know from whom, he first heard them even, but thinks it might have been from the adjutant, Lt. Littlejohn, however, swears positively that he was not the person who either originated the idea, or first propogated it. This witness, also, does not recollect from whom he first heard the surmises, although he has said that it was at breakfast on the following morning, (6th May)—A very short time back, and a very narrow circle to select from indeed, to account for a total failure of memory on so important a point, especially as he recollects the exact phrase in which they were conveyed "*Mr. Mackenzie has been at his old work again.*"

"Thus far shalt thou go, and no farther" is the precept of my prosecutor and accusers, with which they unblushingly present themselves before this court, and demand a Verdict, and Judgment which shall affix lasting infamy on my character!!

The Court will, I fear not, give ample consideration to the fact, that in the investigation at this as well as of the first charge, I have strenously exerted myself to do that, which in an honest cause, should have been the business of the accuser, and not of the accused—to bring before you, the originators of these surmises--here--under, the sacred obligation of an Oath to detail *the facts* within his knowledge, which authorized his conclusions.

What a miserable evasion! What a shallow attempt to hoodwink the Judgment of the Court has been the endeavour to affix on Capt. Stanley the origination of these surmises. But Capt. Stanley himself, is not called on the prosecution No, to go to the *best* Evidence at once is no part of the prosecutor's plan.---*Hear say & opinion* are the Minerva, and Apollo, under whose auspices he will escape the imputation of being one of those, "*Special pleaders*"---whose introduction into the Army he has expressed so lively a dread of, in one of his addresses.---He would not call Capt. Stanley, because his examination must have been against his cause, and he would have lost the benefit of Captain Girdlestone's *opinion*, and the narration of his acuteness in discovering the difference between the Jacose Tone, and the knowing wink which explained to him that "something more was meant than met the ear." The comprehensive shake of Lord Burleigh's head in the Critic, portending Ingland's ruin, can scarcely be put in competition with it!! We may suppose, from Capt. Girdlestone's description, that the whole force of Capt. Stanley's histrionic talents had been concentrated in one grand pantomimic grimace, calculated to astonish a gaping multitude, in negativing by a wink, what he was at the same time uttering from his mouth.

What the prosecutor chose to omit I have supplied, and called Capt. Stanley on the defence. This Officer's account of his own acts shews them in a very different light. to what they appear when related by Capt. Girlestone --from the evidence of the latter it may be inferred that what was said almost implied that McHugh *had* gone to my house by appointment, but Capt. Stanley swears, he only said in perfect Joke "*I wonder* if he went there by appointment," and denies in Tatoo, ever intending by any gesture to convey other than, a Jocose meaning to what he said, and that so far from meaning to impress his auditors, with the idea that there was something "peculiar in the character of McHugh", "he had a good opinion of the man," and adds "that if he did say any thing about him it must have been in his favor."

To Capt. Brongh, Capt. Stanley said "That it was extraordinary McKenzie did not go to prosecute McHugh" this, the former (his mind we may suppose being already poisoned by the abominable surmises that had been formed in the Queen's Royals) appears to have referred some suspicion of a criminal connection,---but what says the latter officers?---Why! that what he alluded to was the general propriety of an Officer's going to prosecute on a charge which he had himself sent in he "never considered for one moment that what he said (on either of these occasions) could possible he taken in a serious light." This evidence and Captain Stanley's letters to Col. Williams and to me form so complete a chain in refutation of the insinuation, that Captain Stanley was the originator of the surmises to my prejudice, that it would be uselessly taking up the time of the Court to say another word on this branch of the subject.

I must beg the Court, however to notice that Col. Williams appears never to have communicated Captain Stanley's explanatory letter to the Officers who excluded me from their society, *principally*, as may be inferred from some of their evidence, from the reports having originated or been promulgated in another Corps, nor does he produce it to Court but goes on with the evidence of Captains Brough and Gridlestone, in confirmation of an error of which he withheld the explanation till it was drawn from him by me on the defence.

There is anothe rbranch of the evidence on this charge which Captain Stanley's deposition meets, I mean that of Ensign and Adjutant Hollingsworth, who more solicitous to garnish his narrative with *sesquipedalian* words, than to convey an accurate meaning, gives it as his *private* opinion (for he was not a member of the Regimental Court Martial) that my attending to prosecute was "*indispensably*" nay "*imperatively*" necessary—in which opinion, however, he is not supported by Captain Stanley, and I have ascertained, that on this point, the members of that Court would coincide with their President—I would not have troubled the Court with even this short analysis of the difference between *the intention* and the *real value* of Ensign Hollingsworth's evidence, had I not reason to believe that he has been actively connected with my accusers. In concluding my defence on this charge I cannot pass by the opportunity, of conjuring the Court to be most full in the opinion and Judgment it may form on this charge——I implore you to reflect on what I have to state——that I stand before you a brother,—Officer accused by the inference of others of the *most abominable and disgusting* among Crimes, and that my accusers, if their inferences are not *fairly* deducible from *my* actions, are guilty of the *next* crime in the scale of enormity—I intreat you to consider that either they or I are not only unworthy of gentlemanly society, but of all human communion—that we no longer deserve to breath the same air, or enjoy the same light—I again conjure you, as you are men, as you are Members of an Honorable Profession, as you are my sworn Judges here, leave me not in that maddening state of Ignominy and doubt in which my accusers have placed me.

Utter hopelessness would bow me down at once under your decisision of my Infamy, but leave me a Prey to every unprincipled, unthinking, and Heartless Calumniator.

With respect to the fourth charge I must throw myself on the mercy of the Court.

But even here they will not fail to discover several highly mitigating circumstances, which bespeak any thing but a disposition to fly in the face of authority.

The sanction of Captain Lawson, was obtained for the employment of a man from his Company, before I engaged Foy, who continued in my service only three days. And that of Lieut. Meldrum, with the subsequently conditional permission of Capt. Brough was granted before I received Turner. The express permission of Col. Williams for the employment of the latter Soldier did not appear to be essential as I solemnly declare upon my honor, that the same Non-commissioned Officer who conveyed to me the Colonel's intention to remove Lintott from my service also informed me, that, with the exception of that man, I was at liberty to select any Soldier in the Regiment, whether the Colonel ever authorized such a message, and he certainly has not denied it, is another question, but that it was actually conveyed to me I again most solemnly affirm.

The name of the Non-commissioned Officer has unfortunately escaped my memory, but I had a strong impression it was Wakeland who is now in the service of Col. Williams, and in consequence I directed Lintott to make the inquiry which has appeared in evidence, and this impression is by no means effaced by the circumstance of the Prosecutor having omitted to avail himself of the testimony of Wakeland in support of this charge because since the last adjourment of the Court, on reviewing a former part of the proceeding, I have observed that he manifested no disinclination to anticipate my defence on other points, whenever he flattered himself he could do it with effect; and if Wakeland could have conscientiously negatived the inquiry made by Lintott, I feel convinced that in order to preclude me from any benefit, however small, that might accrue from this doubt, his evidence would not have been witheld.

My defective memory throws me into a similar predicament respecting the verbal order which annulled the writen one dated. 30th June that a verbal order of some sort, concerning the Servants sleeping out of Barracks, was issued by the Adjutant about the period of the return of the left wing of 20th Regt. is evident from the statement of Serjeant Turner, and although Lieut. Littlejohn would only admit to him that this order was only applicable to married Servants, still it must have been intended to have a more extensive operation, otherwise it was only a repetition of the written order of 30th June for which there could not have been any imaginable motive, as the married Servants had never slept in the Barracks since the Regiment arrived at Poonah and Col. Williams, by his own account, had publicly signified his wish that these people should be accommodated in the out-offices of the officers It is equally clear that a similar notion must have prevailed among all those Officers whose Servants were unmarried, for I am not aware of a single instance of an individual thus situated, whose Servant slept in Barracks when I was placed in arrest The names of Captains Girdlestone and Stead Lieutenants Meldrum, Carney, and Lloyed have been mentioned as instances of Officers permitting then unmarried Servants to sleep at their quarters, to which I beg leave to add those of Lieut. Jenkins and Ensign Lloyd which to the best of my recollection complete the List of those whose Servants were unmarried.

I come now to the fifth and last charge, and I was never so puzzled and perplexed as I am to ascertain from what part of my conduct as adduced in evidence upon this charge, criminality is to be inferred, or to what part of it I should apply my defence except it be objected against me that I have been too indulgent a master, in granting my Servant the free use of whatsoever my house affords but it is a fact well known to every individual of my acquaintance, that I am more nice and exact on the subject of attendance and more particular in my household arrangements than any other Officer in the Regiment. The man who engages with me in quality of domestic has by no means a sinecure, he has, in the day time seldom an unoccupied hour, and in the Evening which I usually spend either in Society or receiving my friends at home his presence at the Bungalow can on no account be dispensed with, otherwise, in the one case my house would be plundered, as it has been before, and in the other, the comfort of my guests must be neglected for his accommadation—It must be evident that such a constant and unremitting course of employment would weary the most zealous and assiduous of servants, and without a proportionate encouragement it would exceed the bounds of all reasonable endurance accordingly, to ameliorate the hardships of his situation, which under the best of circumstances is of itself sufficiently unenviable, and to stimulate him to meet the encreased duties exacted from him with cheerfulness and promptitude, I treat him with unlimited confidence, committing to his custody the keys of every thing I possess, granting him a full participation in such little delicacies as might have been procured for my own consumption. and allowing him to enjoy the Society of his friends or relatives, if he have any, whenever I should be absent on an Evening, and even to entertain them with whatsoevnr my small menage affords—assiduous attention to my interests, cheerful and unhesitating performance of my Commands, scrupulous honesty, and exemplary fidelity, have ever been the undeviating result of my liberality and confidence—the individual who in the instance connected with this Charge officiated as my servant, is Private James Turner—He deposed that conformably to my general permission that he might enjoy the Society of his [redacted] ther the Serjeant and any of [redacted] ver I should be absent from [redacted] ing—He invited Serjeants Turner and McDonald on 14th March and Serjeants Turner, Graham, and Corneen on 17th—that on the first of those nights his party was entertained with Brandy and Water and Sandwiches and separated about an hour after the Play; and on the other they partooke of the same description of refreshments with Ginger-bread-nuts and went to their Barracks at 11.—

The whole of these circumstances have been corroborated by the Evidence of these five Serjeants and I have not the slightest hesitation in admitting them to the fullest extent—but wherein consists the criminality? No attempt has been made by the Prosecutor to prove that any noise, disturbance, or disorder, took place at my Bungalow on these occasions, from any of those witnesses themselves, though a feeble effort to this effect is shewn, by an unsuccessful question to his Lieut. Kennedy—No attempt has been made to shew, that the general permission conferred upon my servant to receive his friends in my absence, was ever contemplated or intended by me to extend beyond the hour of Tatoo Beating—and the single case proved of my having been aware if their continuance at my quarters after that hour, proved also that the measure had not my sanction, because they were never permitted to come there again—Private Turner says, that in the general permission I gave him to recieve his friends the words *after Tatoo Beating*, were not included, but that I told him he might see them at any time when I was from home—but suppose these words had been expressly used, does it follow, that I must have meant them to supersed the necessity of these Serjeants obtaining permission to be absent from the Barracks, before they availed themselves of the servant's invitation—In answer to a question from the Court, Serjeant MacDonald states that both he and Serjeant Turner had this permission on the night of 14th March, and the same might have been the case with those who were there on 17th for they were all orderly and well—behaved men, and not likely to have omitted so important a preliminary—particularly, since 17th March, was St. Patrick's day, when on account of the extra indulgence usually granted to the Natives of the Sister Isle, of which the Queen's Royals have a large proportion, the required permission to be absent from barracks for two or three hours could have been obtained with the greatest facility. I did not consider it incumbent on me to put a question to ascertain this point from any of these witness, it was a subject upon which I was not accused, the *onus probandi* lies on the prosecutor, and if he had conceived that this want of permission was an agravating feature in my conduct he was bound to establish it on the examination of the Serjeants. A crafty attempt is made in one place to convey a suspicion to the minds of the Court (and it is only a suspicion) that I was actually present at the entertainment of these Serjeants, by drawing from Turner an admission that I asked him in Mr. Kennedy's compound wether the Serjeants were come, but to render this conclusive, why was the question which should have followed naturally from this answer not put to the witness, viz. Did Mr. McKenzie join them? But so far from the Prosecutor manifesting any intention to establish my presence at any of these repasts, it has fallen on me in every instance where an evidence has been examined on this point to prove my absence at the time from the Bungalow --the inference is clear, Col. Williams was thoroughly satisfied that I never had so far forgotten what was due to my own character as to descend to sit with such company---what use the Prosecutors purposes to make of these expresssions as deposed to by Turner does not very readily appear, but the Court will recollect that Turner is an ignorant and illiterate man, and cannot be supposed to be well acquainted with the precise value of words. The question I asked was whether the Serjeants *had been* and these he has altered, very unwittingly perhaps into "*were come*" without perceiving that these two expressions, grammatically speaking, have very different significations the one implying that they had been and were gone, and the other that they were come and still continued--and as this inquiry was said to have been made at ½ past 11 o'clock at the night of 14th March--if the latter construction of my meaning be taken for the correct one, it would be quite irreconcileable with another part of Turner's Evidence, which is, that I never knew these Serjeants were in company with him after Tattoo beating till 18th of the same month, after which they were not again permitted. Turner farther says, in answer to a question from the prosecutor, that on 18th March I asked him whether he had given his friends enough to eat and drink on the preceeding Evening---But what does this prove? except as I have before said, that I have been indulgent and liberal Master and that while taking my own pleasure I was not unmindful of the comforts of a faithful domestic---I think it proper also to inform the Court that my Bungalow has no Servants, out offices, and this will readily account for the otherwise unusual circumstance of a Servant receiving his brother and friend into the interior of his Master's dwelling, for Turner himself always resided in one of the spare rooms of the Bungalow.

In conclusion I can not help calling the Courts recollection to the framing of this fifth charge it alleges that I entertained *or* permitted to be entertained at my expense certain Serjeants &c. and perhaps the adversitive conjunction was never before placed between two offences so dissimilar in enormity in this world, the one being of that debasing and degrading complection which, if proved, would very properly disqualify me for all social intercourse, and the other trifling and insignificant, if any Office at all, except as inducing an irregularity on the part of the Serjeants [redacted] from their Barracks after Tattoo [redacted] How little the Prosecutor actually believed in the guilt implied by the first allegation of this charge, is visible to you and to all who have attended to the progress of this interesting trial, for he has cautiously and warily abstained from going into any evidence of my culpability in this particular and has thereby tacitly acknowledged that either this part of the charge was hastily and inconsiderately framed, or to ensure my conviction by your verdict it was only necessary for *him* to accuse.

I have now gone over all the charges submitted to your judgment, article by article, and in doing which I have been principally regulated by an anxious desire to give you one clear and comprehensive view of every thing objected against me, so that you might apply your minds to the full and undisturbed examination of each point seperately, but there are a few points which remain to be discussed, and which though referable to all the charges, could not find an appropriate place amongst the remarks which I have been compelld to make upon either, and for the discussion of these I must crave the indulgence of a few more minutes of your time. In the first place Lieut. Colonel Williams asserts that he was urgid to press my departure, by exchange or otherwise, by considerations for the honor of the Regiment, which he thought likely to be affected, if this matter were brought to a public inves tigation—but it is rather unfortunate for Col. Williams, that he cannot set up a claim to even this small merit, without tacitly confessing a want of reflection and of foresight, which would not be tolerated in a man of much less experience than Col. Williams must be allowed to possess—for he has repeatedly affirmed, that these disgraceful reports had obtained circulation in another of his Majesty's Regiments at this station —and it therefore follows, that the fullest conviction upon all the abominable offences imputed to me could not have made the matter worse, while a base and dastardly flight, pure and unspotted as I knew myself to be, would have given a stamp of authenticity to all these reports, and have inflicted gratuitous infamy upon the character of the Regiment.

The honor of the Regiment, then, in this respect, was inseperable from my own! the establishment of my innocence would have removed the stigma from both, bnt an acquiescence in the advice of Colonel Williams could not have possibly tended to lessen the ignominy of either. The credit of originating the proposal for a Mess meeting Col. Williams in one place assumes to himself, and in another concedes to me. It is immaterial by whom it was first proposed—my own anxiety for its being convened is sufficiently apparent, but it is obvions that the only object, which any man possessed of his reasoning faculties, could possibly have had for this measure was that every suspicion or objectionable circumstance discoverable in my conduct should be distinctly brought to my notice, and fairly and freely discussed, and that an apportunity should be afforded to me. to produce, such explanatory or vindicatory matter as I might deem necessary to clear up the difficulty.

If this mode, so equitable and so reasonable of itself, and which I was entitled to expect from a set of rational beings, had been pursued, the Regiment would have been released from its embarrassment, (if indeed it ever found itself in one) and you would in all human probability have been spared the trouble of assembling to pronounce upon my conduct.

The character of the Regiment, also, would have been free from the discredit, which now attaches to it from that public display of rancour and malevolence by a large proportion of its members, which is recorded upon your proceedings.

But instead of such a liberal and candid discussion of what they conceived to be my demerits, and the free exercise of their own unbiassed Judgment, not a question was asked by any individual of the whole body, no; a syllable was uttered, except the vague, unconnected, and encomprehensible declaration of Colonel: Williams and without listening to any thing which I had to urge in my own behalf, or making me acquainted with any precise act of delinquency, they proceeded to expel me from their society until I cleared myself from these disgraceful reports afloat to my prejudice—while to crown the whole absurdity, not one of them would take upon himself the responsibility of either stating the nature of these reports, or of disclosing the names of their unprincipled and calumnious authors.

Colonel Williams has also affirmed (and in this he is corroborated by several of his witnesses) that he took no steps to influence or bias the opinions of the Officers who composed this meeting. The emphatic silence, however, of Lieut. Carney, speaks volumes—and the reason why a ready reply has been given by other Officers, who were present at the meeting, may be easily referred to the circumstance of their being at the same time my accusers and my Judges—the fabricators of the reports against me, and the Jurors who were to deliver a verdict on my unworthiness to remain in their society, on account of the existence of those very reports—nothing, however violent or exaggerated, which could be said by Colonel Williams would have surprised *them*, from whom the Colonel had received all his information, even to the suggestion of an infamous connection having taken place between me and more than one private Soldier but let us examine how far this affirmation of the Lieut. Colonel, corresponds with the narration which he himself gives of his own Proceedings I quote his own words as delivered on his cross-examination.

"I told the Officers assembled, that on my "return from Singurgh I heard that a Court "Martial had assembled in 20th Regiment "and that I was surprised to find, that the principal evidence who was an Officer in the "Regiment had not thought it necessary to "attend, but had fought off under the plea of "sickness, that this very much surprised me, "as it was only three days previous that Mr. "McKenzie had applied for leave to go to "Bombay—that Mr. McKenzie's neglecting "to attend the trial, so far as *my* opinion "went, certainly evinced a great want of "feeling—that I had called the meeting a-"mong themselves to ascertain the Truth of "the generality of these Reports! that, *I "could not help disapproving the conduct of the "Prisoner and I had no doubt the opinion of "the Officers coincided with my own.*—I then "called upon such Officers has had been pre-"sent at Colabah, *to blend with the opinion of "Mr. McKenzies conduct any reports they "might have heard to his* PREJUDICE *while "there.*—I alluded to Cookes having on his "death bed left the whole of his kit to Mr. "McKenzie, which *I remarked to the Officers* "was a circumstance *unprecedented*, as far as "*my* knowledge went.

Gentlemen, the above is a faithful extract from Colonel Williams's own acknowledged words, and when you reflect that they were addressed to the whole body of the Officers under his command, assembled for the purpose of deliberating upon my worthiness to continue a member of their Society, I may confidently appeal to your candour and goodsense, whether a stronger or a more complete instance of an attempt to influence their resolves could be possibly offered to the human mind.

The Prosecutor in his opening address laments, that efforts have been made throughout these cantonments to cause the merits of this case to be prejudged but after perusing the two following documents you will be at no loss to discover the party to whom so exceptionable a procedure ought to be ascribed—A.

This was published in Division Orders, and as if that were insufficent to deter a few humane and benevolent individuals from expressing their commiseration for the uppararalleled hardships of my situation, the following letter was procured from the same high authority, and inserted in the Regimental Order Book—B.

In further prosecution of endeavours to prejudice the minds of society against me, it is a fact well known to this Court, that the Officers of the Regiment have made a point of renouncing the acquaintance of, every individual, both of his Majesty's and the Honorable Company's service, who has shewn me the least countenance or support, while two of the Prosecutors principal coadjutors have employed themselves, from the commencement of the Trial up to this very day, in disseminating, with a fiendish malignity, reports to my prejudice, which in atrocity and beastiality far surpass every thing which has been stated in evidence and with a view to reduce me to a situation still more helpless and unsupported, if possible, Colonel Williams prohibited, under the severest penalties, every man in the Regiment from communicating with me or approaching my premises, he endeavoured to create a prejudice in the minds of the Court against me, by the most hardy but unfounded acusations of subornation of perjury, to substantiate which he offered not a tittle of evidence without so much as assigning a reason he applied to Sir Lionel Smith eight days after the commencement of your labors, for permission to abridge my liberty, by putting me under close arrest, and this to sever me from intercourse with my friends and finally by secret but frivolous representations to the Major General Commanding the Division, he procured one of those friends, who had assisted me in Court, to be placed under a close and rigorous arrest, and another, who had also aided me with his counse, & assistance, to be expelled from the cantonments and, now, Mr. President and Gentlemen, I approach to a conclusion, nothing remains, but that I should tender my most respectful, and heartfelt acknowledgements for the patient and unwearied attention you have constantly bestowed, and for the liberality, and indulgenee I have uniformly experienced, in every thing that could contribute to my vindication, a most grateful sense of which, whatever may be your ultimate decision, will never be effaced from my memory, till the blood shall cease to flow in my veins. Of your Honor, Justice, and Impartiality sufficient proofs have already appeared, to justify on my part the most unbounded confidence and I conclude my defence with calm resignation for the result, which I presume not to anticipate, and under a moral conviction, that as my guilt, wherever proved, will be visited with its appropriate punishment so may innocence of every thing which can affect my honor and character, wherever established, will be expressed in terms calculated to cast a blush upon the cheek of my foul and unprincipled calumniators.

GEORGE McKENZIE,
Lieut. Queen's Royals.

THE DEFENCE IS HERE CLOSED.

(To be Continued.)

BOMBAY:—PRINTED *for the* PROPRIETORS *by* J. F. DE JESUS, *in* MILITARY SQUARE No. 3.

Additional Supplement to the Bombay Gazette.

WEDNESDAY, 25TH OCTOBER 1826.

(Continued from the Supplement.)

then of my departure for England, and of the vacancy that would occur in the Light Company. I felt at the time pretty sure from what I had heard, that Lieut. Cooper would get into the Light Company, but said nothing of it, having promised not to mention it. I said however that I understood Lieutenant Cavendish, Sterling, Cooper, and Fisher were Candidates. Mr. Dickson said, that he thought neither of these Gentlemen would get it, and that he thought none would be appointed for six and seven months, until they proved themselves fit for (or worthy of) the Light Company. Mr. McKenzie said that, that was all nonsence, for he was sure from what Mr. Meldrum told him of Captain Brough's having promised his interest with Col. Williams, in favor of Mr. Cooper, that he (Cooper) and no one else would get it. There was a good deal more conversation about the Light Company, during which Mr. Dickson gave us to understand, that he would get into it.

Q. Was I capable of attending parade at this time.

A. I think not, to the best of my recollection, you had just had a severe fall from your horse.

Q. Have you any recollection of where I was on the night of the 14th March last, the night of the play.

A. Yes, I remember it perfectly.

Q. State where I was on that night, the time I went there, and when I left it.

A. You dined with Mr. Westby and myself & went to the play, I think with Mr. Westby and was to join a friend of mine, then living with me. Dr. Taylor, I did not go to the play and went to bed, early. I was awoke at a very late hour, and on looking up, saw Dr. Taylor and you eating sandwiches and drinking brandy and water in the next room, and you continued there until one o'clock in the morning.

Q. Can you state where I was on the night of St. Patrick's day, the 17th March.

A. Yes, you were with me and Mr. Westby and several other persons, some strangers and some of our own Officers, eating sandwiches and drinking brandy and water. I can make no mistake with regard to the night as Lieut. Dalway and Caruthers spoke of what a joviat night we had on board Ship that night twelve months.

Q. When did I join you on that night, and when did I leave you.

A. You joined us about seven o'clock and left us about 11 o'clock.

Cross Examined by the Prosecutor.

Q. Did you give your servant Hawkins a general order to look your cabin door, and take the key with him whenever you were not there.

A. Yes he had my positive orders.

Q. State your reasons for these orders.

A. I had a good deal of baggage of my own, and other Officers in my cabin, and I also did not wish the port to be shut down whenever it blew a squall.

Q. Was the Prisoner in the habit of coming to your cabin, and sitting there, and were you invariably present on all such occasions.

A. He came very often there, and sat with me, and he was never there without my knowledge, though I was not always present.

Q. Are you quite positive as to the fact, that Cooke never did eat or drink in your cabin, in your absence.

A. I may say that I am, for Lieut. McKenzie never made use of my cabin without asking me if he might do so.

Q. Had the Prisoner any Private of the Regiment, in the capacity of a servant with him during the voyage, or during any and what part of it.

A. Yes; he had during the whole voyage, Private Lintott.

Q When Cooke was employed in looking over the Prisoner's canteen, and taking care of his wardrobe, was he not a Non-commissioned Officer.

A. He must have been, for he was made a Corporal at Chatham.

Q. Was he not a Serjeant also, during a great part of the time.

A. The latter part of the time he was.

Q. Have you ever seen Cooke, when a Serjeant amongst other Officers take the Prisoner's bedding upon deck.

A. I don't remember, but I dare say he did.

Q. As you cannot be supposed to have been always in your cabin, and the prisoner had free access there, is it not possible that Cooke may have ate and drank there occasionally in your absence without your knowledge.

A. I have not said that he had free access, and I feel certain that Mr. McKenzie would not have gone there without telling me.

Q. As to undue intercourse not existing between the Prisoner and Cooke, do you mean to be understood that the Prisoner and Cooke never were together in your cabin, but in your presence.

A. I have already stated that I have left the Prisoner in the cabin, while Cooke, Lintott, & Hawkins were cleaning his Canteen, and I have seen Cooke cutting his hair there, and left him, and have come in and found Cooke cutting his hair. This was all with my own knowledge for the Prisoner always asked for the cabin.

Q. Were the Prisoner and Cooke, ever in your cabin together when you were not present.

A. They were, but not without my knowledge as I have before stated.

Q. Was the late Private Cooke in the habit of going to the Prisoner's Bungalow, when at Colabah.

A. I have seen him there more than once or twice.

Q. What part of the conversation that took place at Colabah, did you subsequently communicate to the Prisoner.

A. during Mr. McKenzie's visit to Mr. Meldrum, Mr. McKenzie found fault with me one day in my Bungalow at Colabah, for my coolness to some of the Officers of the Regiment, I was rather nettled at this and said, that I should never consider persons as friends from appearances only, and although he now thought so much of some of his friends, I thought they were not to be trusted. He pressed me to tell him to whom I alluded, and on his promising not to mention it. I told him that Mr. Meldrum had been talking of his kindness to the Soldiers, and particularly to William Cooke, and that Mr. Meldrum had also stated that other Officers had talked of it, as improper his being so kind to Soldiers. Mr. McKenzie hurt me by his receiving what I said as I thought with incredulity thinking that I was rather prejudiced against Mr. Meldrum. There the conversation ended and Mr. McKenzie soon after returned to Poonah.

Q. As the warm and assured friend of Lieut. McKenzie, did you not conceive it to be a solemn and sacred duty to give him some more intelligible hint on a subject involving all that was dear to man.

A. I had every wish to do so, as I have already stated, but Captain McLean having been a friend of mine since I joined the Regiment, and Senior Captain of the Regiment having advised and urged me not to inform Col. Williams or Lieut. McKenzie. I thought it best to let it drop after both Captain McLean, and Mr. Mildrum assured me that they did not believe it, this wish I communicated to Lieut. Carney of the Regiment at the time at Colabah, in a confidential conversation told him all that taken place, and all that Captain McLean had advited and urged me to do.

Q. As you were in bed on the night of the 14th March, is it not very possible that Lieut. McKenzie may have gone outside of your Bungalow, so as to have been seen by any person who may have happened to be in his compound.

A. The two Bungalows, Mr. Westby's and Mr. McKenzie's were together, there being only a railing between them, and had Mr. McKenzie gone out & he might have been seen, but I rather think he did not go out as I was awake by Dr. Taylor, and he talking together after they came in from the play.

Q. Can you swear positively, Lieut. McKenzie did not go out of your Bungalow after his return from the play before he went home.

A. I can't swear positively, but I am pretty sure he did not, for he appeared to be very much pleased with his companion.

Q. On other of the night of the 14th & 17th March last, did you hear any noise or know from any other cause that some Non-commissioned Officers of the Regiment were making merry in the Prisoner's Bungalow.

A. On the night of the 14th, Dr. Taylor and myself lay awoke the greater part of the night, and heard no noise from Mr. McKenzie's quarters, and on the night of the 17th, there was a party singing, and making a noise, and of course we heard no noise in Mr. McKenzie's Bungalow. I did not know, nor hear of any Non-commissioned Officers being there on these nights.

Q. On the night of the 14th March, could the Prisoner have gone out of your Bungalow without your knowledge.

A. He could not have gone out, after I awoke without my knowledge at the time, I think and I awoke, I believe, just after Dr. Taylor and Mr. McKenzie came in.

Q. Could you inform where you lay on the night of the 14th March, see Lieut. McKenzie's, and his companion, where they were sitting.

A. I have already stated that I saw them when awoke.

Q. How long after they came in, was it that you awoke,

A. I can't tell.

Q. At what hour did you awoke on that night.

A. I don't know what hour it was, it was far in the night, and they told me they had come from the play.

Q. Did they say how long they had been from the play.

A. I don't think they did.

Q. Could Lieut McKenzie have gone out to make water, from your Bungalow on the night of the 14th March, without your knowledge after his return from the play.

A. Before I awoke he might, but not after my joining them without my knowledge at the time, though I don't remember now his doing so.

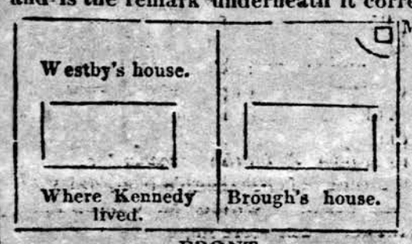
Re-examined by the Prisoner.

Q. Is not Capt. Broughs compound between my Bungalow and Mr. Westby's, and is there not a hedge or row of trees between Captain Brough's and Mr. Westby's, and is there not also a hedge and railing in my compound and Captain Brough's.

A. Yes, that's all right, I made a mistake in my former answer.

Q. It is the plan now shown you, a correct one of the relative.

Situations of the compounds and Bungalows, and is the remark underneath it correct.



FRONT.

Lieutenant Kennedy and Lieutenant MacKenzie originally lived together in Captain Brough's house, but after Captain Brough purchased it, Lieutenant Kennedy went to Lieutenant Westby's, and Lieutenant McKenzie to his own house in the corner.

A. Yes, it is all quite right.

Q. Was your conversation with me when I was on a visit to Mr. Meldrum at Colabah, after Cooke's death.

A. Yes, it was after his death.

Q. *By the Prosecutor.*—Was not Captain Brough's and the Prisoner's compound always one, and the same until the Prisoner not long since built his present house on it.

A. Yes.

Q. *By the Prisoner.*—When were the compounds seperated.

A. I do not know, but it was before the 14th March, I think.

Lieutenant Kennedy withdraws.

The Court is now Adjourned until to-morrow forenoon at 11th o'clock.

TWENTY THIRD DAY

SATURDAY 29TH JULY 1826.

At a General Court Martial, then holden at Poonah pursuant to adjourment,

Present, the same Member as yesterday.

Read over the Proceedings of yesterday.

Serjeant Russell 2d or Queen's Royal Regiment called into Court and duly sworn.

Examined by the Prisoner.

Q. Did I come to your Guard on the night of the 5th May last, and take you and one or two men with me to my Bungalow.

A. Yes.

Q. State what took place when you come to my Bungolow

A. Wen I went to Lieutenant McKenzie's Bungalow, I saw a man making out of the window, and another man was in a bed in the room.—I went and took a gripe of the man and pulled him out of the bed. I asked him what business he had to come into an Officer's Bungalow at that hour of the night, and he said he was in liquor and was going to the Bazar, and had come into the window without knowing where he was going. I asked him if he had come there at that hour of the night with the intention of robbing Mr. McKenzie, and he said he had not. Mr. McKenzie asked me if I knew the man, and I said that he did not belong to our Regiment, that he belonged to the 20th. Mr. McKenzie then told me to take him up to their own Guard house,

Q. Was there any matrass or bedding on the bed-stead from which you pulled his man out.

A. I think there was a kind of matrass, but no bed clothes on it.

Q. Did you observe where I had been sleeping.

A. Yes, you had been sleeping in a room opposite.

Q. Look at this plan and point out the room in which McHugh was found and the one in which I had been sleeping.

A. The room marked L. was the one in which McHugh was found, and the one marked M. was the one in which Lieut. McKenzie had been sleeping.

Q. After lodging McHugh in the Guard house of the 20th Regiment, did you give in any crime against him.

A. Yes, next morning.

Q. Who wrote this crime, and what were the words in which it was expressed.

A. I did, the words, "Private Charles McHugh confined by order of Lieut. McKenzie, for going into his house on the night of the 5th instant, with intent to rob or plunder the said Officer's Bungalow."

Q. By whose directions was this crime made out.

A. Mr. McKenzie.

Q. Have you not done every thing in your power, since the night of the 5th May, to find out the other man whom you saw making out at the window.

A. No.

Cross Examined by the Prosecutor.

Q. Have you any reason to know how long these men might have been in the Bungalow before you were called there.

A. No, I don't know, when I was called I went immediately.

Q. Had you such a view of the man who made off as to know whether he was a Soldier or not.

A. I think he was a Soldier.

Q. Had the man you took into custody, his shoes or boots on.

A. I can't exactly say, as the night was very dark.

Q. When you arrived at the Guard house of the 20th Regiment, did you not observe whether he had them on or not.

A. No, I did not.

Q. Was the man you took, Private Charles McHugh, drunk or sober.

A. He had been drinking a little liquor, but I could not say that he was drunk.

Q. Who signed the crime against Private Charles McHugh.

A. It was me.

Serjeant Russell withdraws.

Lieut. Eyre, H. M. 20th Regiment duly sworn.

Examined by the Prisoner.

Q. Have you at my desire made any attempt to discover who the man was, who accompanied McHugh to my Bungalow.

A. Yes, I have.

Q. State what you have done and what has been the resuslt.

A. About a week after McHugh had been released from the cell in which he had been confined, I sent for him to the Barrack Room just after parade, and in the presence of a respectable Serjeant named M. Hart, of my own company, I put several questions to McHugh, and endeavoured to persuade him to tell me who the person was that accompanied him that night to Lieut. McKenzies Bungalow. He told me that being a little in liquor he had strolled out towards the huts of the married men of the Queen's Royals, and that a man met him. I asked him who that man was, and to what Regiment he might belong. He said he did not know the man either by person or name, but that he was a Soldier of the Queen's. I asked him how he know him to be a Soldier of the Queen's. His reply was by the buttons on his jacket. I then asked him how he had come to find his way into Mr. McKenzie's bed. He said that the other man had put him in it. I then asked him if he was confident that the man who had placed him in the bed, was the same who had asked him to go with him to Lieut. McKenzie's house. He answered it was. I then asked him, "would you know the man in question if you saw him." He answered, "no." I asked him how the other man was dressed, and he said, "to the best of my knowledge in a white jacket." I then asked him if the man was drunk. His reply was, "he could not be very drunk when he was able to make his escape in the manner he did."

At a subsequent period I again sent for McHugh to my own house, and in the presence of the same Serjeant that I have above mentioned, I again questioned him on the subject and urged him to inform me who that man was, and with a view to rise feelings that he might tell me. I gave him a slight insight into what had been the consequences of that affair. He still pleaded ignorance, and on my continuing to urge him his reply was. "If I did know the man and betrayed him, I would have no business to stay in the Regiment afterwards." I again begged him to inform me, but he would not, and still remained stubborn in pleading his ignorance.

Q. During your inquiries have you heard any thing of a pair of a shoes, said to have been left in my house.

A. Yes, in my interview with McHugh while speaking to him about his memory serving him in some points, and his forgetting others he made the remark. I ought to remember the evening well, for I lost a pair of shoes.

Examined by the Prosecutor.

Q. Do not you think that if a prompt and vigorous inquiry had been set on foot immediately after the occurrence of the 5th May, the man who escaped must have been discovered.

A. No, I do not think that under the circumstances he could have been, but had Mr. McKenzie been aware of the gross and infamous reports attached to that circumstance, he would have immediately set an inquiry on foot, but I also think that this inquiry would have been as useless as the one which I subsequently made.

Q. Do not you think the chance of finding out the other man, was greatly diminished by the inquiry being delayed so long.

A. In many cases where delay took place, the chance would be diminished, but under the circumstances of this case, I do not think the chance was one jota diminished.

Q. Will you please to state how it can be that delaying an inquiry in such a case as the present would not go to defeat the object of it.

A. In the first place no inquiry could have been made of McHugh for one fortnight after, as he was in solitary confinement, in the second place it is not very reasonable to suppose that Mr. McKenzie could find it necessary to make any inquiries in the present instance, until he became acquainted with the disgusting calumny of which circumstance he, was not informed until the 10th or 11th of May, and even then it was not fully defined to him.

Q. When did the transaction take place in Lieut. McKenzie's Bungalow, and when

was McHugh confined in consequence of the sentence of the Court Martial by which he was tried.

A. The transaction occurred on the night of the 5th May, he was tried on the 8th, and to the best of my recollection he was placed in solitary confinement on the 10th or 11th.

Q. Did you communicate the result of your examination of McHugh, either to the Commanding Officer or Adjutant of the Queen's Royals.

A. No.

Q. Can you tell what has become of the pair of shoes allluded to in your evidence.

A. I cannot tell.

Q. Did you consider the information obtained from McHugh important or otherwise, particularly as it concerned the Queen's Royals.

A. I considered it most important to the Prisoner, and as his friend communicated it only to him, knowing that the Prosecutor had it equally in his power to make inquiry into the case.

Q. Why suppress your knowledge concerning a man of the Queen's Royals being implicated, which if communicated was very likely to lead to a discovery of the offender, and thus throw full light on the mystery.

A. I did not suppress my knowledge.

Q. Did you communicate the result of this examination in any way intended or likely to convey information of it to any Officer of the Queen's Royals, except the Prisoner.

A. No.

Re-examined by the Prisoner.

Q. As you made these inquiries as the *Prisoner's* friend, did you consider it *right* or *necessary* to put the *Prosecutor* in possession of any thing you might learn which appeared to be favourable to the Prisoner.

A. No, I did not.

The examination of Lieut. Eyre is here finished.

Captain Stanley H. M. 20th Regiment called into Court and duly sworn.

Examined by the Prisoner.

Q. Were you President of a Regimental Court Martial, which tried Private Charles McHugh on the 8th May last.

A. I was.

Q. By whom was the crime against him signed as the person prefering it.

A. By Colonel Fitz-Gerald.

Q. Did you consider my presence on the trial as indispensable towards prosecuting the Soldier with effect.

A. Not indispensable, otherwise I should have adjourned the Court to Mr. Mackenzie's house.

Q. Did you at the supper table of the Queen's Royals, on the 6th May last, allude to the circumstance for which McHugh was tried.

A. I did, on the morning follwing the night in which the two men had been in Mr. McKenzie's house, I heard a report that a man of our's McHugh was confined for being found in the house of an Officer of the Queen's Royals. I inquired into the particulars, but could not get any information as they said, that the crime had not been sent in against him at that time. I think it was on the evening of the day I attended the Club of the Queen's, and when seated at the table at the end of the Billiard-room, where was the greater part of the society smoking * cheeroots and drinking brandy and water. I inquired from Mr. Carruthers (I am pretty certain it was him) the particulars of what had occurred the preceding night. He told me the circumstance of a man having been found in Mr. Mackenzie's bed, when I in a most laughing and unthinking manner, never conceiving for one moment, that there could have been an individual present, who would watch what fell from me in just, and could possibly misinterpret my manner of expressing, that just made the remark in the most jocose manner possible. I wonder if he went there by appointment.

Q. Did you address this remark to Captain Girdlestone.

A. To no person particularly.

Q. Did you ever subsequently make this or a similar remark.

A. To the best of my recollection, no.

Q. Did you ever tell Captain Girdlestone & Captain Brough that McHugh went to my Bungalow by appointment.

A. Never.

Q. What was your opinion of McHugh's character previous to his commission, of the fault for which he was brought to trial.

A. I always considered him as a man of general good character.

Q. At the supper table of the Queen's Royals on the 6th May last, did you make to any one across the table any remark, on or allusion to this man's character.

A. I do not recollect that I did, but if I did so, it must have been favourable to him.

Q. Is this a letter which you addressed to me.

A. It is.

My Dear McKenzie.

In reply to your application to me, I beg to state, that I certainly did express my surprise, and regret, before the Court Martial, that you did not attend as prosecutor, as the Prisoner escaped a severe sentence. I also repeated this opinion before others, but rest assured, I neither *thought* or *expressed* that any thing *disgraceful* attached to your non-attendance as an evidence.

Yours very truly
W. A. STANLEY.

13th May, 1826.

Q. Did you previous to sending your letters to Colonel Williams and myself on this subject, mention to any of the Officer's of the Queen's Royals, or say in their presence, that the remark you had made respecting McKenzie was in joke.

A. No, certainly not, for as soon as possible after hearing that notice had been taken of this remark, I wrote those letters.

Q. On what day and at what hour did you dispatch your letter to Colonel Williams.

A. I do not recollect the date, but I heard that notice had been taken of the remark in the evening, and I sent my letter to Colonel Williams the next morning immediately after breakfast.

Cross-examined by the Prosecutor.

Q. At the time of McHugh's trial, did you not think the Prisoner would have been able to give evidence much more important and conclusive against him, than a Serjeant, who could know little more than taking him into custody.

A. He perhaps might have thrown more light upon the subject.

Q. Was not the Court detained in the expectation attendance.

A. It was detained, I inquired from the Adjutant, if Mr. McKenzie was not to prosecute and he said not, at which I expressed my surprise. The Adjutant told me, I think, that Colonel Fitz-Gerald has received an explanatory note from Prisoner stating that he was in the sick list, and also that Colonel Fitz-Gerald wished me to put a marginal note to that effect on the proceedings which I did.

Q. Was the remark above deposed to, made in a tone sufficiently loud to be heard by other Officers present, and by Captain Girdlistone amongst the rest.

A. I was made in the tone of common conversation, laughing at the time.

Q. Did you ever make any allusion when at a party at Mr. Hunter's to the Court Martial, on Private Charles McHugh, of your Regiment.

A. I did, to Captain Brough, I expressed my surprise and regret as expressed in my letter to Lieut. McKenzie. Captain Brough is the principal person to whom I alluded in these words. "I also repeated this opinion before others."

Q. Did you expressly say to Captain Brough, that the Prisoners conduct was highly improper in not prosecuting a man found in his bed, and that it was considered extraordinary.

A. To the best of my recollection I said to Captain Brough, that I thought it very extraordinary wrong in Mr. McKenzie in not attending, but this expression was solely made use of under the impression that every Officer who sends in a crime against a soldier, should personally prosecute him.

Captain Stanley withdraws.

The Court is now adjourned until Monday next, at 11 o'clock of the forenoon.

TWENTY FOURTH DAY,

Monday 31st July 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present, the same Members as Saturday last.

Read over the Proceedings of Saturday last.

Lieut. Kennedy now addresses the Court, and requests permission to discontinue his attendance on the Court as a witness. The Court is hereupon closed, and on deliberation, resolved. That it appears to the Court, a Lieutenant Kennedy has been examined both on the prosecution and defence, has further detention as a witness is not necessary.

Private James Turner again called into Court and examined on his former oath.

Examined by the Prisoner.

Q. Has the Adjutant send for you on your way down to the Court to-day, or spoken to you about it, if so, state the whole of what he said.

A. No.

Q. During the time you were my servants, did I ever give you shirts, jackets, trowsers &c.

A. Yes.

Q. Have you had any money from me within the last two months.

A. No.

Q. Has any promise been held out to you by me or any other person for me, to induce you to speak in my favor before the Court.

A. No.

Q. After the Adjutant confined you on the 5th May last, how long did you remain in confinement.

A. Two nights and a day.

Q. Was any crime sent in against you, and if so, how was it worded and by whom signed.

A. No.

Q. Were you ever sent for by the Adjutant and Lieut. Colonel Williams and examined by them about me.

A. Yes.

Q. State what then occurred.

A. The first time I was sent for by the Adjutant to his quarters. He questioned me about where I slept when I lived with Mr. McKenzie—Concerning the Serjeants who were down there, and what they had to eat and drink, and how often they had been down there. I told him and repeated over as near as possible how often they had been down. He would not then believe me and said it was a damned, be and an untruth that I was telling him. He told me he had a great mind to send me in the Guard room, and have me tried by a Court Martial for telling lies, during the time that I was answering his questions in the same manner as I have spoken before this Court, he said it was an untruth, that I was telling lies. He said I was trembling with fear before him and afraid to speak the truth, and that he saw guilt blazing out of my eyes.

The second time I went also down to Lieut. Littlejohn's quarters. The Colonel was then present and Serjeant Turner. I was questioned again both by the Colonel and Lieut. Littlejohn concerning the Serjeants, and I answered as I had done before. The Colonel then got up off his seat and said I wished to shuffle and not to tell the truth, but if I would, not he would lay a mark upon me, that I would carry with me to the grave, or words to that purpose.

I was sent for a third time up to the Colonel's quarters, and he put the same questions to me that I had answered before, and I answered them as I had done before. The Colonel rising from his chair said, if I did not speak the same, in the Court he would make an example of me before the Court.

Q. Have you been sent for by the Adjutant since this trial commenced.

A. Yes, I have.

Q. What did the Adjutant then say to you.

A. It was the Paymaster who was then at the Adjutant's quarters that questioned me at this time, he asked me the questions that were put to me in the Court, and the answers that I would make to them, wishing to know the answers that I would give to them. He asked Serjeant McDonald and Private Graham, and wished to know the answers they would give. The Adjutant then asked me if I had been up at Mr. Eyre's. I told him that I had. He asked me if Mr. Eyre had sent for me. I answered that the last time I had been there, I went of my own accord. He said it was against the Commanding Officer's orders. I told him that I had received no order against it. He repeated the words over again and said that there was an order against it. He said my brother behaved like a man and a soldier, that Mr. Eyre had called upon him at the Barrack room to know if what I had told him was the case, and that my brother told him he could not answer any question without the Commanding Officers permission, and said, that I went up volunteering against the Commanding Officer's orders, to let Mr. Eyre know what happened. The Paymaster then spoke out and said not to speak any more about it. The Adjutant said that as Mr. McKenzie was going to bring me forward on his defence, he would not but after it was over he would remember me. That Colonel then came in, the Paymaster then told him that he had been questioning us, and that we had answered very well and told the truth as far as we had known. The Colonel said he hoped we would stick to that to-morrow, when we would be called into Court. To the best of my knowledge the Colonel said he had a better opinion of me then he had at first.

Q. When did this conversation take place before or after this trial commenced.

A. After.

Q. Have you been at the Adjutant's quarters any other time since this trial commenced.

A. Yes.

Q. What did the Adjutant then say to you.

A. He questioned me much as at first. He then asked me if I had ever received any money of Mr. Eyre. I told him I had not. He asked me if I was sure of it. I told him, I was. He asked me if I could take my oath of it. I told him I could. He then asked me how much money I had received of Mr. McKenzie. I told him I had not received any, that two or three Rupees of the wages owing me, when I left him, were still due to me. He asked me if I was sure of it, and I told him I was. He asked me if I could take my oath of it. I told him that I could. He then questioned me if I wore a morning gown during the time I lived with Mr. McKenzie. I told him I had not worn any. He asked me if I could take my oath of it. I told him I could. He then said, I would think it strange if he should bring forward several men of the Regiment, who would swear that they had seen me wear one. He then went and sat down on his chair opposite to when the Paymaster was sitting, and looking towards the Paymaster he said, there was no use in asking him any thing, that we were both bribed by them. The Paymaster then speaking said, he saw that we were, when the other was brought into Court the other day, he could not recollect the length of time he had been servant to Mr. McKenzie, he could not tell how many months or how many weeks, but he could recollect the difference of a few days between the 14th and 12th, about Cooke down at Mr. McKenzie's quarters.

Q. Whom did the Adjutant mean when he said, we were both bribed by them.

A. To the best of my knowledge it was Lintott, and one, and that we were bribed by Mr. Eyre and Mr. McKenzie.

Q. When the Adjutant asked you if Mr. Eyre had given you any money, was not the Paymaster and Serjeant Turner present.

A. Yes.

Q. Do you remember on one occasion when you were at the Adjutant's quarters, that after he had given you much abusive language, a Serjeant reminded the Adjutant that he had given a verbal order for servants to step out of the Barracks at their master's quarters.

A. Yes.

Q. Who was that Serjeant

A. Serjeant Turner.

Cross examined by the Prosecutor.

Q. What did the Paymaster advise or recommend you to do when you came as a witness before this Court.

A. For to speak the truth.

Q. Did the Paymaster say any thing about the uncertainty of life, a state of reward and punishment in another world, and the heinousness of perjury even to save ones brother.

A. Yes.

Q. Has not Lieutenant Colonel Williams whenever he saw you or spoke to you about this Court Martial, told you impressively that all he wanted was the truth, the whole truth, and nothing but the truth.

A. Yes.

Q. Have you never received an order not to discuss or talk about the matters you would be called upon at this Court Martial, to prove with the Prisoner and his friends until you had been Examined before this Court.

A. No.

Q. Did the Adjutant at any of the interviews you had with him try to make you depart from the truth.

A. No, I cannot say that he did.

Q. Do you remember to have been warned by the Adjutant not to go to Lieutenant McKenzie's quarters without the permission of the Commanding Officer.

A. He told me he would not advice me to go of my own accord, but as often as Mr. McKenzie sent for me always to go down to him.

Q. Have you ever seen and spoken to Lieut. McKenzie since you received this caution.

A. At the time I received this caution it was at the Adjutant's quarters, and the Colonel was there, and as I was going out the Colonel also said, that I might go down as often as I was sent for, but not of my own accord, and since then I have been several times at Mr. McKenzie's quarters.

Q. Was it not plainly given you to understand that the permission to go to Lieutenant McKenzie's quarters was not to take place until he began his defence.

A. No.

Q. How often did you go to Lieutenant Eyre's quarters, since the commencement of this trial, before Lieutenant McKenzie commenced his defence.

A. To the best of my knowledge I have been once, but I cannot recollect any more.

Q. Do you swear positively that you were but once.

A. No, I cannot swear positively.

Q. On the occasion that you went to Lieut Eyre's quarters, who were the persons present and what conversation took place.

A. The time I was up there I went of my own accord to let Mr. Eyre know what the Adjutant had said to me, I told him that the Adjutant had sent for me and asked me how much money I had received of Mr. Eyre, and that I told him I had not received any, I told him he asked me if I was sure of it, and that I told him I was, I told him he asked me if I would take my oath of it, and I told him I could. I told him the Adjutant asked me how much money I had received of Mr. McKenzie, and I repeated the same words over again. Mr. Eyre then asked me if any persons were present, and I told him the Paymaster and Serjeant Turner no person was present at this conversation.

Q. About what time was it that this conversation took place.

A. To the best of my knowledge, I think it ten or twelve days ago.

Q. Were any questions put to you by Lieutenant Eyre, or did you declare all that you have stated without being asked.

A. He asked me what it was that was said and I told him.

Q. As you have detailed conversations of great length in the presence of the Adjutant and Paymaster, can you recollect nothing more that was said by you or to you at Lieutenant Eyre's quarters.

A. No, there was nothing more.

Q. Who was present at Lieutenant Colonel William's quarters, when you say you went up there respecting what you had to swear to on this trial.

A. The Paymaster, Captain Lawson, and the Adjutant.

Q. After this trial commenced do you not remember going to Lieut. Eyre's quarters in company with Private Lintott.

A. Yes.

Q. What took place on this occasion.

A. Mr. Eyre asked me if Lintott had been sent for by the Col. or the Adjutant, and I told him that he had not, since he had been called into Court. He said very well he did not wish to see him.

Examined by the Prosecutor.

Q. When was it the Adjutant told you, you might go down to my quarters when I sent for you.

A. To the best of my knowledge it was about the last day of May.

Q. Has not an order been since given out forbidding any men of the Regiment to go to my quarters.

A. Yes, there was.

Q. Have you been at my quarters since that order was given out.

A. No.

Private Turner withdraws.

Serjeant Bluet, 2d or Queen's Royal Regiment called into Court and duly sworn.

* Cigars.

Examined by the Prosecutor.

Q. Who relieved you from the Hospital Guard on the 12th July 1825.

A. Serjeant Cooke.

Q. In what state Serjeant Cooke when he relieved you.

A. He was drunk.

Q. At what hour did he relieve you.

A. About five o'clock in the evening to the best of my knowledge.

Q. How was he dressed at this time.

A. He had his cross-belts over his shirt, no jacket on, but a loose coat.

Q. On your way down to the Court last Saturday, did the Adjutant send for you.

A. He did.

Q. What did the Adjutant then say to you.

A. He asked me what I had to do with Mr. McKenzie's Court Martial. I said first, I did not know, and then that it was about Serjeant Cookes relieving me off the Hospital Guard.

Q. Did the Adjutant say nothing more to you.

A. He did, he asked me in what state Cooke was, I told him he was drunk when he came to relieve me off guard.

Q. Were you present on the 28th June, when the Adjutant assembled and addressed the Serjeants, if so is this the purport or nearly so of that address.

A. I was not present, I came when the Serjeants were dismissing.

Cross Examined by the Prosecutor.

Q. Was Cooke so drunk as to be incapable of doing his duty.

A. He was.

Serjeant Bluet withdraws.

The Court is now adjourned until tomorrow forenoon at 11 o'clock.

TWENTY FIFTH DAY.

TUESDAY 1st AUGUST 1826.

At a General Court Martial then holden at Poonah Pursuant to adjournment.

Present, the same Members as yesterday.

Read over the Proceedings of yesterday.

Serjeant Turner again called into Court and examined on his former oath.

Examined by the Prisoner.

Q. Do you recollect having been present at Lieut. Littlejohn's quarters when your brother was there and questioned by Lieut. Littlejohn.

A. Yes, several times.

Q. Do you recollect on one occasion after your brother had been questioned making some remark to Lieut. Littlejohn about servants sleeping out of Barracks.

A. Yes, I said to him that servants were allowed to sleep out of Barracks, and he said it was married servants.

Q. Did the married men, since the Regiment has been in India, ever sleep in the Barracks.

A. Yes, on our first coming to Colabah, and afterwards they were too throng in the Barracks and the married servants were ordered to go to the Officers houses or to the huts to sleep.

Q. Was there ever any order given out allowing servants to sleep out of Barracks.

A. When the wing of the 20th Regiment joined there was an order for married servants to the best of my recollection to go to Officers qarters. I was on Guard the day the order was given out and Serjeant Doyle, the orderly Serjeant of my Company told me that an order had been given out for servants to sleep out of Barracks, but he did not say whether married or single.

Q. Did you ever hear Reilly Colonel William's gardener make any remark about the witness who might be examined at this Court Martial.

A. Yes.

Q. What did Reilly say.

A. He said that he had heard that Lintott, Turner, and two or three more had got into a pretty scrape, and if they did not take care they would get a flogging, or something to that effect. I asked Reilly if he meant me, and he said no he meant my brother.

Q. Did Reilly say from whom he had heard this.

A. No.

Q. Were you present on the 28th of June, when the Adjutant called the Non-commissioned Officers together, and do you recollect his address to them.

A. Yes.

Q. To the best of your knowledge does this paper contain the purport or nearly so of that address.

A. Yes, these are nearly the words.

Address of Lieutenant Littlejohn, Adjutant of the Queen's Royal, to the Non-Commissioned Officers of the Corps.

I have assembled you for the purpose of cautioning you against discussing the merits of your Commanding Officers, a man who with *myself* has laboured night, and day, for the comfort of the Men, but more especially the Serjeant and this is the return of gratitude, you *damned* unprincipaled *Rascals*. The canteen I find is your convenience for speaking as to the merits or demerits of your officer. The conduct of 3 or 4 of you now present is disgraceful to you as Men and also Soldiers, but depend on it I'll pluck the *Black Sheep* from the white, for if I am pressed *too far* I shall turn and *bite*, I shall give orders from this moment and will hold the Senior Non-Commissioned Officer responsible, that no Officers name is mentioned in the Mess-room of the Serjeants *and should you dare to mention the name of Lieutenant McKenzie*, or to visit his quarters without the leave of the Commanding Officer, I shall not fail to punish according to the offence.

You will give these orders to the Men of the Company to which you may belong.

Cross Examined by the Prosecutor.

Q. Did not the Paymaster, addressing himself to you, your brother, and all these who were present endeavour to impress upon you the necessity of telling truth, and the awful consequences of committing wilful perjury.

A. Yes, something to that effect.

Q. Have you not always understood that the permission for Officer's servants to sleep out of Barracks was confined to married men.

A. Yes, excepting the last order which I received from the orderly Serjeant, as I stated before.

Q. Have you ever received an order to the contrary.

A. No.

Q. When and where did you hear Reilly make use of the xpressions you have deposed to.

A. I cannot recollect the date, but it was in the veranda of his own Barrack-Room that he made use of them.

Q. Did Reilly ever say, or lead you to suppose, that he had heard those observations from Colonel Williams, or any one, about his house.

A. No.

Examined by the Court.

Q. When in presence of you brother, you reminded the Adjutant that there was an order permitting Officers servants to sleep out of the Barracks, did you yourself suppose the permission to extend to those servants who were not married as well to those who were.

A. I asked the Adjutant at the time whether it was single servants, and he said no, married servants only.

Q. Did you not know whether or not this order extended to servants who were not married.

A. I did not, I was not certain.

Serjeant Turner withdraws.

Lieutenant Carney, 2d or Queen's Royal Regt. called into Court and dully sworn.

Examined by the Prisoner.

Q. Did you ever hear it said, that I made a practice of sending for soup on board ship, and giving it to the late Private William Cooke in Lieut. Kennedy's cabin.

A. Yes, I heard it said so.

Q. Did you mention this to Lieut. Kennedy, and if so what did he say.

A. I mentioned it to him about four months and a half ago. He expressed himself very much surprised when I mentioned it to him, and after considering for a minute or two, he said that the person who had mentioned it to me, must have been mistaken, and must have taken Johnstone for Cooke. Lieut. Kennedy also said that he had been in the habit of giving this man Johnstone soup, and port wine, negus, in his cabin, as he was very sick on board the Ship, and that this was recommended by the Doctor of the Ship.

Q. Did you ever hear at Colabah and reports reflecting highly on my character.

A. I heard that a report of a serious nature prejudicial to your character was in circulation, It was told to me by Mr. Kennedy in confidence, and at the same time he told me that he had wished to make Lieut. McKenzie acquainted with it, but had been prevented doing so by Capt. McLean of the Regt., he told me it was from Capt. McLean, and Mr. Meldrum, that he heard the report first, and also told me that they did not believe it, and that he had taken the advice of Capt. McLean, not to say any thing about it to Mr. Mckenzie.

Q. Were you present at the Meeting of the Officers of the Regt. on the 13th May last.

A. I was.

Q. Do you remember what I said at that Meeting.

A. I recollect Mr. McKenzie saying, when asked by Colonel Williams, what he intended doing, that he should use his endeavours (or utmost endeavours, I am not sure which) to find out the authors of the reports on circulation prejudicial to his character. This is all that I recollect,

Q. Did Capt. Girdlestone say any thing at this Meeting.

A. I recollect a remark he made which was that an Officer of the Regt. had said in the Billiard room the day before that it was supposed that the man found in Mr. Mckenzie's Bungalow had come there by appointment.

Q. Did you ever witness any thing in my conduct derogatory to the character of an officer, and a gentleman.

A. No.

Q. Have you been written to, by Colonel Williams's order respecting your servant since the trial commenced, and what was the purport of that communication, and your answer.

A. I have, calling upon me for my reasons, for having a Regimental servant sleeping at my Bungalow, contrary to orders. The note I received from the Adjutant mentioned the date of the order as the 20th June last, to which I replied that having looked over the Regimental order Book. I could not perceive any order under that date relative to servants, and begged that he would point out to, what order he alluded, I then received another note from him saying that if I would step in "he would point out the order to me, I sent him back a verbal message saying that as I was unwell" I would be glad to see him at my Bungalow. I heard no more until I received a message saying that Colonel Williams wished to see me, at the Adjutants quarters, I dressed, and went there immediately and found the Colonel, and the Adjutant there. Colonel Williams told me when I intered the room, that he had sent for me in consequence of my dis-obedience of orders in keeping my servant in my Bungalow, and that he would wish to know my reasons for doing so, as I must be very well aware that there was an order against it, and the letter which I had written to Lieut. Littlejohn was produced, and Col. Williams said that I was quibbling, and I said I was sorry he thought so, that the reason why I had written so was in consequence of the note which I had received from Lieut. Littlejohn bearing a wrong date as to the order, and. I then produced it when the mistake was immediately discovered by the Adjutant himself. I then threw myself on the Col's. mercy or acknowledging that I had dis-obeyed the order, and that I was sorry for it, and at the same time giving as my reasons that other Officers in the Regt. had done the same thing, which induced me to do so, also Col. Williams then asked me, to mention the names of the Officers, and I did of some of them. He then told me that my servant should be released from the Guard house, and to take-care not disobey an order again. I said that it was the first order that I had disobeyed, and that it should be the last.

Q. Name the Officers who had servants sleeping in their quarters at this time.

A. Captain Girdlestone, Lieut. Meldrum, Lieut. Loyd, and myself, these are the names which I then mentioned to Col. Williams.

Cross Examined by the Prosecutor.

Q. By whom did you hear it mentioned that soup had been sent for, and given to Cooke in Lieut. Kennedy's cabin.

A. Lieut. Cooper was the person who told me.

Q. Have you ever heard the same thing from any other Officer.

A. No.

Q. Was it mentioned by Lieut. Cooper, as a more matter of hearsay, or as a matter of fact that was within his own knowledge.

A. It was in the course of conversation in which Mr. McKenzie's name was mentioned, he said that Cooke used to get soup, and Lunch in Mr. Kennedy's cabin, and that he had seen him, one day himself sitting at table eating some thing, and that both Mr. Kennedy, and Mr. McKenzie were in the cabin at time.

Q. Have you never heard any report of a nature similar to that mentioned to you by Lieut. Kennedy, either prior or subsequent to that Officers confidential communication respecting Lieut. McKenzie.

A. No, not prior, but subsequently, I have respecting the man of the 20th Regiment.

Q. Did Lieut. Col. Williams at the Meeting of Officers, say or do any thing that appeared to you as if intended to create on unfavorable bias to the Prisoner, or to have an undue influence on their opinions on that occasion.

A. I decline answering the question.

Q. Was not the order of the 30th June 1825, fully understood by you so far as regards the sleeping of servants not married in their masters Bungalow.

A. It was perfectly understood.

Q. Did you ever receive a verbal order about the time of the arrival of the left wing of the 20th Regt., stating that *all* servants were allowed to sleep out of Barracks.

A. No, I never did.

Q. Can you state whether Captain Girdlestone had or had not the Commanding Officer's leave for his servant sleeping out of Barracks.

A. The morning that I received the letter about my servant sleeping out of Barracks from the Adjutant, I was coming out of the orderly room, with Capt. Girdlestone, and mentioned to him, that I had received this letter, and that I was going home to answer it. He expressed his surprise, and said he was not aware of it, was contrary to orders, and that he had a man sleeping in his Bungalow himself so. I concluded from that, that he had not the commanding Officer's permission.

Q. Has not Lieut. Doyd been sick for a very considerable period.

A. He has.

Q. Did not Capt. Girdlestone say that the report he stated at the Mess Meeting, he had heard at the supper-table of the Queen's Royals, and that Capt. Stanley of the 20th Regt. had mentioned it.

A. He might have said so at the commencement of the Meeting, for I was late in coming in, but after I came in, I did not hear Captain Girdlestone make use of these words, but the remark I have before stated.

Lieut. Carney withdraws.

Serjeant Shipley H. M. 2d or Queen's Royal Regt. called into Court and dully sworn.

Examined by the Prisoner.

Q. Since I was placed in arrest on the 1st June last, have you had any conversation with the Adjutant respecting me.

A. I have.

Q. State all that has passed between you and the Adjutant respecting me.

A. The Adjutant asked me at Lieut. Col. William's quarters, how many times I had visited Mr. McKenzie's quarters. I said but once, and I was then sent for by Mr. McKenzie. I was asked what had passed between Lieut. McKenzie and me. I answered, that I was sent for by Mr. McKenzie, that Mr. McKenzie told me I was capable of discerning honor and dishonor, and that I should speak the truth. He then asked me if a conversation had not taken place in the Serjeants Mess-room of the Queen's Royals between Serjeant White and me. I said there had, Serjeant White came into the Mess-room and said that he was very sorry he was the worst evidence against Mr. McKenzie. I told him it was a delicate affair and that we had no business with it. He still persisted in the conversation, and said that he was very sorry that such was the case having received kindness from Mr. McKenzie. He said he had received many favors. He was then desired by those present, not to carry on the conversation. I told him that after receiving the favors he admitted of, he was acting very improperly in making use of Mr. McKenzie's name. He said what could he do, the Adjutant had sent for him, and had sent him out twice into his garden to consider what he had to say.

The Adjutant afterwards sent for me to his quarters, and told me that I had acted very improperly in discussing the merits or demerits of the Commanding Officer. I told him I was inadvertently drawn into the conversation, as it was far from my wish, that any Officer's name should be mentioned there. I knew that I had acted improperly and said that I could not possibly have avoided the conversation unless I had left the room.

Q. Did Serjeant White say, that the Adjutant put, what he was to say against me into his mouth, or words to that effect.

A. He said, "what could I do Mr. Littlejohn put the words into my mouth." I told him he was speaking highly improperly, that he could not possibly know what he was saying, and that he could not but be aware that he was speaking dishonourably of Mr. Littlejohn, as a Gentleman.

Q. Have you ever had any conversation with the Adjutant respecting what you know, or could say respecting the subject of this trial.

A. No farther than asking me how many times I had been down at Lieut. McKenzie.

Q. Did the Adjutant ever say to you, that you had thrown the cloak off a week too soon, that the colors were in, in reserve for you. but now you would not get them.

A. Yes, he said these words.

Q. What did you suppose that Adjutant meant when he made use of these words.

A. From my having acted improperly in speaking of Officers when I had no business to talk of them.

Q. When did the Adjutant make use of these words.

A. I can't exactly say, but it may be two or three weeks ago.

Q. Have you ever had any conversation with Lieut. Colonel Williams about me.

A. The first conversation that ensued was in presence of Colonel Williams, and I was then partly questioned by Colonel Williams and partly by Lieutenant Littlejohn, I never had any other conversation with Col. Williams.

Q. Besides asking you how often you had been at my quarters, what other questions were put to you at that time.

A. There were not any other questions.

Q. Did Lieut. Col. Williams ever say to you, "well Shipley, you are an honourable fellow, and I am sorry you are not on our side," or any words to that effect.

A. Never.

Q. Were you present on the 28th of June last, when the Adjutant assembled the Non-commissioned Officers and addressed them.

A. Yes, I was.

Q. Does this paper contain the purport, or nearly so of that address.

A. Yes, it does as near as I can recollect.

The preceding paper authenticated by Serjeant Turner.

Cross Examined by the Prosecutor.

Q. Did Lieut. Col. Williams ever say or hint any thing to you as if he wished you to say any thing on this trial but the truth.

A. He did not.

Q. Have you been at Lieut. McKenzie's quarters since the 29th of June.

A. I have not.

Serjeant Shipley withdraws.

The Court is now adjourned until to-morrow forenoon at 11 o'clock.

TWENTY SIXTH DAY,

WEDNESDAY 2D AUGUST 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present, the same Members as yesterday.

Read over the Proceedings of yesterday.

The Prosecutor is now Examined by the Prisoner.

Q. What was the meaning which you intended to convey by the words undue intercourse inserted in the 1st Charge.

A. Improper intercourse that should not exist between an Officer of the Regiment and a man both when Serjeant and a Private.

Q. Who first informed you that such an intercourse existed between me and the late William Cooke, either on board the Inglis or at Colabah.

A. I have deposed in a former answer that these reports reached me after my arrival from Singhur on the 10th May, I heard them between the 10th and 13th from Captain Lawson, Captain Graham, and the Adjutant, as well as from Capt. Brough and Head, and as far as I can recollect, I think it was the Adjutant from whom I first heard the affair on board Ship and at Colabah.

Q. Can you state the precise terms in which information of this undue intercourse was conveyed to you.

A. It was the man Cooke having gone repeatedly to Mr. McKenzie's quarters, and in particular latterly when Mr. McKenzie should not have allowed him to come about his house, having been cautioned on the subject both by the Major of the Regiment and the Adjutant. This is the substance of the information, but I cannot recollect the precise terms in which it was conveyed to me.

Q. Did any person ever tell you that he had seen Cooke and myself together at any time under circumstances improper between an Officer and a Soldier.

A. I have heard so since framing the Charge from Mr. Cooper and Mr. Dickson on board Ship, and since this Court has commenced by Mr. Raitt who told me he actully saw this man Cooke waiting upon a party at tiffin at Mr. McKenzie's quarters at Colabah.

Q. Did you ask any person who informed you of the undue intercourse for proofs of his knowledge.

A. I here again state that I mean the words undue intercourse merely to attach to a military offence, and the information I received is already on these Proceedings.

Q. Did you ever mention to me that I had engaged in an improper or undue intercourse with the late Private Cooke at Colabah.

A. I cannot tax my memory with having done so, but if I did must have been to prohibit Cooke going down to your house, and being employed about your person as a servant.

Q. Did you ever order me not to allow Cooke to come to my quarters.

A. Yes, I think I have, I may say positively I have.

Q. In what manner and on what date was this order conveyed.

A. I think it may be dated the 23d July 1825. the day the Adjutant conveyed to Mr. McKenzie my refusal to the application he then made for Cooke as a servant.

Q. Was not your displeasure at my having applied for Cooke, founded upon the alleged dis-

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obedience of a Regimental order which prohibits the employment of reduced Non-commissioned Officers as servants.

A. No. it was not, I felt hurt certainly at the time when the application was made for it was only a few days after the Serjeant had been reduced.

Q. Previous to these charges being framed or subsequently have you examined Private Lintott, or been present while he was examined.

A. Yes, I examined Private Lintott in the presence of the Adjutant at my quarters about the latter end of June.

Q. What was your mode of examining Lintott, that is, did you first mention circumstances and receive Lintott's reply to them, or did you allow him, after asking a general question, to mention such circumstances as he was acquainted with.

A. I did both, I had very strong cause of suspicion that Lintott was an evidence that I could not depend on and I drew this conclusion from the fact of his having come up to my Bungalow, when I was absent at the Mess here, being one of our clubnights on or about the 17th of June, his object of coming there was decidedly either to suborn my servant a man of the name of Wakeland or to find out from him whether I had committed myself by speaking to my servants or in their presence of matters regarding this Court Martial.---The questions put by Lintott to my servant in substance were nearly as follows.--- Did you hear any thing passing in the house against Lieut. McKenzie, and what was going to happen to him. Lintott said it would do him (Wakeland) no hurt, if he told him. He also asked him if he recollected about six weeks ago going down with Colonel Williams's compliments to Mr. McKenzie, saying that he might take any man in the Regiment as a servant except himself (Lintott) and a man of the name of Foy. There was another question whether he was the Corporal who brought him (Lintott) to the orderly room at Colabah, while he was servant to Lieut. McKenzie for being drunk and out of his Barracks, when I taxed Lintott with coming to his commanding Officer's quarters asking the questions he did, he gave me to understand he came there of his own accord, but subsequently acknowledged that he had been sent by Lieut. McKenzie.

Q. Did Lieut. Littlejohn never mention to you the promise stated in the 1st Charge previous to the 18th May last.

A. No, he did not, but the reasons he assigned to me for not doing so, shewed his intention to have been that of kindness towards the Prisoner, as I had had occasion to find fault with him several times about that period.

Q. In what terms did Lieut. Littlejohn mention the circumstance connected with this alleged promise.

A. As nearly as possible in the same manner as he has deposed to in these proceedings.

Q. Did Lieut. Littlejohn mention any particular instances of my having persevered in an undue intercourse with Cooke after this alleged promise had been given.

A. Yes, he did, he stated to me that the man Cooke had frequently gone down to Mr. McKenzie's quarters after that promise, and he mentioned one particular instance of the Roll of the light Company having been called at 10 or a little after 10 o'clock one night, and of the man Cooke having been absent, of the certainly in his minds of Cooke's being at Mr. McKenzie's, that he had without hesitation sent the Serjant up there and of the right conclusion he had formed as the man was found in Mr. McKenzie's Bungalow.

Q. According to the standing orders of the Regiment, ought an Officer on the sick list to leave his quarters for the purpose of performing any military duty.

A. The Rules of the service certainly are so, but I have known instances of its having been done.

Q. In my particular case ought not any requisition for my attendance at a Court Martial, to have gone through the Commanding Officer of my Regt., in order to have admitted of my leaving my quarters in consequence.

A. Properly speaking it ought, but the Regiment was very peculiarly situated at the circumstance stated in the 3d Charge occurred. I as Commanding Officer was absent on sick leave, the Major was sick, the Senior Captain present was sick, and the summons from the Commandant of the Garrison, should and ought to have been attended to in my opinion under the circumstauces of the case.

Q. To what do the words "extraordinary circumstance" in the 3d Charge refer to.

A. To the man McHugh having been found concealed in Lieutenant McKenzie's bed.

Q. After my letter to you of the 10th May, what was there that appeared extraordinary in this circumstance.

A. Had I been present in camp at the time these men were seen in Mr. McKenzie's house, I should have hoped that the whole affair would have been settled in some manner or other, but on my arrival in the camp on the 10th May, I heard reports so disgraceful, and discreditable to an Officer of the Regiment, that I lost no time in demanding an explanation from Mr. McKenzie. This his letter of the 10th May, is his answer and under the extraordinary circumstances of the case, I did not consider this answer sufficiently explanatory.

Q. Did you not belive the statement contained in this letter.

A. I of course gave credit to the statement contained in this letter, but my suspicions at the time were so strongly excited that I thought for the credit of the Corps that the thing ought to be taken up.

Q. What is there in the circumstance of a man being found in an unoccupied bed in a Gentleman's house, which should induce him to take any measures for defending himself against a suspicion of being addicted to unnatural practices.

A. I do not suppose that there is a person in this camp, who would be taxed with a circumstance so revolting to ones feelings, and I can only conclude that that circumstance with respect to Mr. McKenzie had a strong weight with those individuals, who had heard the reports at Colabah, as well as with those Officers who come out in the same Ship with him from England.

Q. Name the person whose report first conveyed to you, the connexion between the surmises at Colabah, and those that were conceived here in consequence of my not having gone to prosecute McHugh.

A. After the conversation, I have deposed to as having taken place at the breakfast table of Captain Graham and Head, on the morning of my arrival from Singhur, and the interviews I had with Captain Lawson, and Brough, as well as the Adjutant who all mentioned it, I must give in the names of almost all the Officers of the Regiment, but I cannot say positively who first mentioned it to me.

Q. Did any Officer mention to you that he had communicated to me the reports in circulation at Colabah, or that he had any reason to believe that I was acquainted with them.

A. No person mentioned that he had communicated them to you, but it was told to me that Mr. Kennedy might have related to you the purport of the reports in circulation at Colabah, and that Captain McLean would be able to throw some light on it. I lost no time in getting an answer from Captain McLean, and these are his very words. "Whether he (Kennedy) had said any thing to McKenzie about it. I cannot say, he might or might not." It was principally to ascertain this that I was so anxious, Mr. Kennedy should be present here to give his evidence on that point.

Q. Has not the order of the 30th June 1825, respecting servants not sleeping out of Barracks been suffered to fall quietly into neglect & disuse.

A. No certainly not, I never received any Report from the Adjutant until the other day which could induce me to suppose so far a moment.

Q. Have you not caused several Officers' servants to be confined since this trial commenced, and on what account.

A. Yes, I think three servants were confined, and that was done immediately it was ascertained, that they had been sleeping out of Barracks without leave, they were the servants of Lieutenant Meldrum, Carney, and Doyd. Mr. Carney acknowledged his error and threw himself on my mercy. Lieutenant Meldrum and Doyd were sick, Captain Girdlestone had also a single man for his servant and in consequence of his being in the family of Captain Girdlestone who was a married man. I remember to have given him permission at Colaba has for his servant sleeping and eating at his quarters.

Q. Was I not sick from the middle of April last till the 1st June.

A. I cannot say, I did not return to the command of the Regiment except at muster days from the 17th of March until the 23rd of May.

Q. Since the conclusion of the prosecution, have you annulled the prohibitory orders respecting my examining men of the Regt. as witnesses.

A. No, when the Prosecution was concluded, I naturally expected Lieutenant McKenize would have applied to me for any men he might wish for on his defence, and I should certainly not how refused it, no application has ever reached me for that permission and I beg to quote the second paragraph of a letter written by my desire to Lieut. McKenzie on the 28th June, which is as follows. "You are distinctly to understand that it is not the Commanding Officer's wish by this communication to deprive you of the benefit of any man's evidence which you may have reasonable grounds for supposing may be material for your defence.

Q. Is this a letter written to me by your desire.

A. It is, and part of the advice contained in that letter was suggested to me by the Judge Advocate General of the presidency, my reasons for the latter part of this letter were from the frequent use of the brandy bottle in Mr. McKenzie's house, to Serjeants and Privates of the Regiment.

Camp near Poonah,
2d July 1826.

Sir,

I am directed by the Commanding Officer to acknowledge the receipt of your letter of this day's date, and in reply thereto, I have to inform you that this stage of the proceedings he deems it highly inexpedient to allow you any further intercourse with the witnesses for the prosecution, but after their examination has been taken, he will not object to your having an interview with them, subject however to such limitations as circumstances may render necessary.

I have the Honor to be
Sir,
Your most Obt. humble
Servant
JAMES LITTLEJOHN,
Lieut. Adjutant Queen's Royals.

To
Lieut. McKENZIE,
Queen's Royals.

Examined by the Court.

Q. Is it not consistent with your knowledge that Col. Fitz-Gerald, though commanding the station, also commands his own Regt. the 20th.

A. Yes.

The Examination of the Prosecutor is here finished.

The Prisoner now requests the indulgence of five days delay, in order to prepare his written defence.

The Court complies with this request and is in consequence adjourned until Tuesday next, the 8th day of the present month, at 11 o'clock of the forenoon.

TWENTY SEVENTH DAY.

TUESDAY 8TH JULY 1826.

At a General Court Martial then holden at Poonah pursuant to adjourment.

Present, the same Members as on Wednesday last, with exception of Lieut. Colonel Smith certified to be sick, and unable to attend. In consequence of the illness of Lieut. Colonel Smith the Court is adjourned until Friday next, at 11 o'clock of the forenoon.

TWENTY EIGHT DAY.

FRIDAY 11TH AUGUST 1826.

At a General Court Martial then holden at Poonah pursuant to adjournment.

Present, the same Members as on the Twenty-sixth day of Meeting.

Read over the Twenty-sixth days Proceedings.

The Prisoner now delivers in the following defence which is read by a friend of his.

MR PRESIDENT AND GENTLEMEN.

I now stand before you Charged with Offences, some of which, it will be obvious to the Court, are only the vile constructions put on my actions by the very persons who are brought to prove the charge against me; some of a trivial natnre, & one. the uncertainty & want of precision of which, from the non-communication to me of the Crime against McHugh cited in the Charge, the Judge Advocate General has thought it his duty to point out to the Court.

The whole having been hastily framed by my Prosecutor, with a wide latitude of time circumstance, and conjecture, on his discovering, that conscious of my innocence, I resisted his endeavours to induce me to confess myself guilty of the most abominable in the Catalouge of Crimes, by shamefully withdrawing from investigation.

My Prosecutor has indeed, shuddering to find himself so near the edge of a precipice, to which motives, best known to himself, had hurried him, endeavoured to recede from his danger—of this advantage, however he has deprived himself by his conduct out of Court, which has in the course of the Evidence been brought before you, and by the tenor of his questions to the witnesses on the Prosecution.

For although in the numerous addresses with whcih the Prosecutor has endeavoured to load these proceedings, he has invariably made profession of a wish to keep the abomination, which was his *original* accusation against me, out of sight. yet all his examination tend directly to the production of it.

In order to render the first Charge intelligible, I must divide it into four parts, and endeavour to show, as well as that enormous mass of hearsay and report, with which your proceedings are overloaded will admit, the bearing of the Evidence upon each.

First.—That I persevered in an undue intercourse with Cooke while he was a Serjeant in the Regiment.

Secondly.—That this undue intercourse was persevered in, after he was reduced from the rank of Non-commissioned Officer, although I was cautioned on the subject and repeatedly ordered to discontinue this intercourse by order of the Commanding Officer.

Thirdly.—That although I pledged my word to the Adjutant, on the 20th July that the said intercourse should cease, I nevertheless continued to persevere in the same and thereby gave rise to reports, amongst the Officers, and men highly disgraceful and prejudicial to my character.—and

Fourthly.—That these disgraceful reports were distinctly brought to my notice, and that I exhibited so crimiual a disregard to my own honor and character, as to take no steps to vindicate myself from the stigma cast upon me.

I shall commence with the first, viz. that I persevered in an undue intercourse with Cooke while he was a Serjeant.

Private Henry Smith states, that he lived as a servant, during the months of June, July, and August 1825, to Captain Jackson, who inhabited the same Bungalow with me that he has frequently seen Cooke go in and out of the Bungalow, that I had then another servant, who for 14 or 15 days of this time was sick in Hospital, that during the period of this servants indisposition Cooke supplied his place, and for a part of that period, held the rank of Serjeant;—now, all the witnesses examined upon this point fix the 12th July for the date on which Cooke committed the offence for which he was reduced viz. "getting drunk while on the Hospital Guard" and the 15th of the same month, for the date of his actual reduction—but Lintott, who was the other servant alluded to by Smith, in answer to a question, framed by me for a very different purpose, states that *he* did not go into Hospital until *after* the severe illness he describes me to have laboured under, on the evening when Cooke incapacitated himself by drunkeness, for the proper discharge of his duty on the 12th July, had terminated.

So, the Court will perceive that the day of my indisposition and that of Cooke's transgression were precisely the same —and as Lintott has deposed, that I continued in a very bad state for several days afterwards, it follows, that my recovery, and Lintott's subsequent admission into Hospital, must necessarily have taken place after Cooke's reduction to Private, and consequently, that his supplying the place of Lintott as a servant, during the confinement of the latter in Hospital, and while he held the rank of Serjeant, is impossible—a second point, coming within this division of the Charges, and upon which the Prosecutor attempts to raise a presumtion of undue intercourse, is a report that Cooke was supplied by me with liquor which caused his breach of discipline on 12th July, and that he was discovered on that Evening at my Bungalow, in a state of intoxication.—Both Captain Lawson and Lieutenant Littlejohn depose to having heard such reports, but it does not appear that either of them had the candour or liberality to satisfy themselves as to their accuracy.

The testimony of Serjeant Bluett I hope, set, the matter at rest and convince the Court of the fallacy and groundlessness of those reports.—he states that when Serjeant Cooke came to relieve him on the Hospital Guard on the 12th July 1825 at 5 o'clock in the Evening he was so drunk as to be incapable of doing his duty, Lintott my servant has farther proved that it was after this hour that Cooke came to my quarters —consequently Cooke was not reduced as the Prosecutor alleges for the crime of getting drunk in my quarters with liquor of my own supplying.

A third point embraced by this division of the charge is. that Cooke, while under arrest for being drunk on duty, broke that arrest on the night of the 14th July. which he spent till four o'clock in the morning at my Bungalow—and here there is a most extraordinary discrepancy, in two of the Prosecutors principal witnesses.

Lieut. and Adjutant Littlejohn avers, that on the night of 14th July, Serjeant White reported Cooke was absent---that he desired the Serjeant to remain up till Cooke came in, that the Serjeant remained up till one o,clock in the morning, but Cooke not returning, he went to sleep, and was informed when he arose, that Cooke had returned about 4 o'clock---now in almost every word of this statement, he is directly contradicted by Serjeant White, for if any evidence is to be attached to the testimony of that Non-commissioned Officer, it is ascertained that his sitting up to wait for Cooke did not originate in any orders whatever from he Adjutant, but was the result of his own sense of duty and that so far from having received any instructions to that effect from Mr. Littlejohn, or from having reported Cooke's absence to him on the preceding Evening, he entirely neglected to make that report and drew down upon himself a censure from the Adjutant for that omission---Again---the Prosecutor asks Lieut. Littlejohn whether he took any steps to ascertain where Cooke had been on that night to which he replies, that he did, and that Serjeant White reported to him that Cooke had been at my Bungalow---But, what says Serjeant White when upon his Oath, and in answer to a question of the same desciption from the Prosecutor—Why—that he neither knew, nor had any reason whatever to know, where Cooke had been on the night of 14th July so that either Serjeant White must have made a false report to Lieut. Littlejohn, or that Officer, in his eagerness to fix a disgraceful suspicion upon me, must have placed himself in a situation to crave the Court's indulgence for a somewhat defective memory—a comparison of the slow, cautious and hesitating manner in which Lieut. Littlejohn delivered the evidence on the cross-examination with his plain, blunt, ready and unreflecting demeanor of Serjeant White, will at once determine the Court upon the amount of credibility, on this subject, to be accorded to either even were they to overlook the conclusive fact, that neither Private Henry Smith, who lived in the same house, nor my own servant Lintott, recollects to have seen Cooke near the Bungalow at all, on that Evening, I must now carry the Court's consideration of this alledged undue intercourse, to a period antecedent to that, of which I have just been treating, I mean to the voyage from England, and in laying before them the insignificant facts actually deposed to, they will no doubt be equally astonished with myself, that inferences of such magnitude should ever have been drawn from such paltry premises.

Captain Lawson deposes to have heard from Ensign Dickson, that I frequently asked to have Cooke excused from the night watches, and that this man used to get soup, port wine and cheese—and he further states that Lieut. Carruthers informed him that I used to conceal Wine and water where the Colors were kept for the use of Cooke, which the young Midshipmen used to discover and consume—But all this being hearsay, can have no influence over the Court's decision upon the Charge under review, and it is only adduced in this place to exemplify the extreme variance which will sometimes prevail, between a statement made in a loose desultory conversation, and that deposed to by the same individual under the obligation of an Oath—for neither Ensign Dickson, nor Lieut. Carruthers make the slightest allusion to the occurrences for which their names have been thus given as vouchers by Captain Lawson, and what is no less remarkable, the fact, stated to have been furnished by Lieut. Carruthers was an absolute impossibility, as the Colors of the Regiment did not accompany the Ship on which we were embarked—But when Lieut. Carruthers is called himself, he has nothing to offer but what he heard from others and is unable to testify to any one specific fact, "He heard that the Officers of the Cabin witnessed thh familiarity of this man, till it became the subject of conversation" By familiarity and intimacy, he means associating with a Private Soldier. "He never saw me associating with Cooke, but has heard that I used to give him grog and tiffin in Mr. Kennedy's Cabin does not mean that I ate and drank with Cooke, but has heard that I was present at the repast—In precisely the same style of hearsay, and idle conjecture is the testimony of almost every witness adduced in support of this part of the Charge—and the Court, I am sure, will be sensible of the extreme difficulty and embarrassment under which I must necessarily labour in [redacted]g mysely against such general and undefined allegations—From the nine Officers. my fellow Passengers; who have been called to exhibit proofs of my having maintained an undue or Criminal intercourse with Cooke while on board Ship, only two positive facts have been elicited—in every other particnlar they all declare that they never themselves witnessed the slightest approach to intimacy or even familiarity—nor ever saw us together..

The facts adverted to, are first that Cooke was in the

(Continued in the 2d Additional Supplement.)